

**In the High Court at Calcutta**  
**Circuit Bench at Jalpaiguri**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

**WPA 491 of 2023**

**RPC Commercial LLP**  
**-versus-**  
**Assistant Commissioner of Income**  
**Tax & Ors.**

Mr. Himangshu Kr. Ray,Adv.  
Mr. Arijit Ghosh,Adv.  
...for the petitioner.

Mr. Sudipto Kr. Mazumdar,Adv.  
Mr. Ajoy Kr. Singhanian,Adv.  
Mr. Saptak Sarkar,Adv.  
...for Income Tax.

Affidavit of service filed by the  
petitioner be kept with the record.

Counsel for the respective parties are  
present. The petitioner has challenged the  
notice dated 28<sup>th</sup> July, 2022 issued under  
Section 148 of the Income Tax Act,1961  
relating to the assessment year 2015-16, and  
all subsequent proceedings based on the  
impugned notice dated 28<sup>th</sup> July, 2022 under  
Section 148 of the Income Tax Act, 1961,  
mainly on the ground of jurisdiction of the  
assessing officer in issuance of the impugned  
notice under Section 148 of the Act being

barred by limitation under Section 149(1) (a)/149(1)(b) of the Income Tax Act, 1961. In the impugned order under Section 148(d) of the Act, the assessing officer has tried to justify the initiation of the proceeding by relying on instruction of 01/22 dated 11<sup>th</sup> May, 2022 issued by CBDT. Admittedly, issuance of notice and initiation of reassessment proceedings are beyond the period of six years and, prima facie, it is barred by limitation – both under old Act as well as under new amendment provisions relating to Section 149 of the Act.

Learned Counsel for the State vehemently opposed the interim order as prayed for by the petitioner on the ground that the limitation is not applicable in the case of the petitioner and the assessment of tax is the fraudulent reversal of the Stock Exchange.

Considered the rival submissions of the respective parties, this Court finds that the matter is required to be heard on merit only after exchange of affidavits and, as such, this Court, prima facie, is of the view that if, at this stage, no stay is granted, the petitioner will be prejudiced. Accordingly, the

respondents are directed to file affidavit-in-opposition within eight weeks from date; reply thereto, if any, within three weeks thereafter.

In the meantime, there will be no further proceedings on the basis of the impugned order dated 28<sup>th</sup> July, 2022, being annexure P-4 of the writ petition till disposal of the writ application.

Let the matter appear before the next available Circuit Bench after completion of the period of 11 weeks.

**(Krishna Rao, J.)**