

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

Before:

The Hon'ble Justice Om Narayan Rai

WPO 65 of 2026

KAUSHIK ROY

VS.

**THE ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE - 61,
KOLKATA & ORS.**

For the Petitioner : Mr. Vishal Karla, Adv.
Mr. A. K. Dey, Adv.

For the Respondents : Mr. SaumenBhattacharjee, Adv.
Mr. SujitMitra, Adv.
Mr. Ankan Das, Adv.
Ms. ShradhyaGhosh, Adv.
Mr. Raunak Seal, Adv.

Hearing Concluded on : 24.02.2026

Judgment on : 24.02.2026

Om Narayan Rai, J.:-

1. Affidavit of service filed in Court today be kept with the records.
2. This writ petition lays challenge to an order dated June 20, 2025 passed under Section 148A (3) of the Income Tax Act, 1961 and the consequential notice dated June 20, 2025 issued under Section 148 of the said Act of 1961 for the assessment year 2021-22.

3. Initially, a notice under Section 148A (1) of the said Act of 1961 had been issued to the petitioner calling upon him to show cause as to why re-assessment proceedings should not be initiated by issuing a notice under Section 148 of the said Act of 1961 in order to assess his income for the assessment year 2021-22 on the ground that the petitioner is a “*Non-Filer*” in respect of the said assessment year.
4. The petitioner responded to the said notice under Section 148A (1) on March 28, 2025 detailing therein the particulars of the Income Tax Return that the petitioner had filed for the said assessment year and thereby asserted that re-assessment proceedings under contemplation should be dropped.
5. The Assessing Officer has, by the order impugned, rejected the petitioner’s contention and held that the case at hand is fit for issuance of a reopening notice under Section 148 of the said Act of 1961.
6. Mr. Karla, learned Advocate appearing for the petitioner submits that the order impugned has been passed without considering the petitioner’s reply. He has taken this Court through the show cause notice under Section 148A(b), the petitioner’s reply thereto and the order impugned to buttress his contentions.
7. Mr. Bhattacharjee, learned Advocate appearing for the respondent Revenue authorities submits that the Assessing Officer has clearly noted the petitioner’s contentions in the reply and that although it may be contended that the ultimate conclusion reached by the Assessing Officer is not to the liking of the petitioner, yet, it cannot be said that the case at hand is one of total non-application of mind. It is submitted that since the petitioner’s reply has been clearly taken note of by the Assessing Officer, the conclusion reached by him should not be disturbed.

8. Heard learned Advocates appearing for the respective parties and considered the material on record.
9. Although the Assessing Officer has extracted the petitioner's reply in verbatim, in the impugned order, yet not even one line has been spared by the Assessing Officer that would evince that he has bestowed any consideration to the said reply. The ultimate conclusion of reopening of the petitioner's case for re-assessment of his income for the assessment year 2021-22 is not based on any reason.
10. It is settled that reasons are live links between the proposition and the conclusion. There is none in the case at hand. In the first two and a half pages of the 11-pages order, the Assessing Officer has recorded information on the basis of which the initial notice to show cause was issued; the rest of the pages till the 10th page have been devoted to paraphrase the notice to show cause and to extract the petitioner's reply. The last page records an abrupt conclusion that the petitioner's case should be reopened without indicating why and how could the petitioner be still treated as a "*Non-Filer*" when the petitioner had (has) brought on record material to show that the petitioner had indeed filed his return of income for the relevant assessment year. The conclusion that the petitioner is "*Non-Filer*" despite a reply clearly indicating an Income Tax Return having been filed for assessment year 2021-22 itself can be nothing else but product of non-application of mind.
11. Since the order impugned clearly evinces total non-application of mind, the same cannot withstand scrutiny under Article 226 of the Constitution of India. In such view of the matter, the order impugned dated June 20, 2025 and the consequential notice of even date under Section 148 of the said Act of 1961 are set aside. The Assessing Officer shall re-visit the matter and pass a fresh order upon

considering the petitioner's reply to the notice under Section 148A (1) of the said Act of 1961, in accordance with law.

12. With the aforesaid observations, WPO/65/2026 stands disposed of. No costs.

(Om Narayan Rai, J.)

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AR (CR)