

Court No. - 3

Case :- CIVIL MISC REVIEW APPLICATION DEFECTIVE
No. - 213 of 2023

Applicant :- Parveen Azad And Another

Opposite Party :- Income Tax Appellate Tribunal, Bench-
B, Income Tax Office, Allahabad And 4 Others

Counsel for Applicant :- Pradeep Agrawal, Amar Mani Tiwari

Hon'ble Vivek Chaudhary, J.

(I.A. No.2 of 2023 -Recall application)

This is an application for recall of the order dated 31.10.2023.

Reason indicated in the affidavit is sufficient.

Application is ***allowed*** and the order dated 31.10.2023 is recalled and the review application is restored to its original number.

(I.A. No.1 of 2023 -delay condonation application)

Heard learned counsel for the parties.

This is an application for condonation of delay in filing the review application.

Reason indicated in the affidavit is sufficient.

Application is ***allowed*** and delay in filing the review application is condoned.

(Order on petition)

Petitioners have filed the present review application for review of the order dated 31.07.2023 passed by this Court in Writ C No.1000800 of 2000 (*Azad Ahmad Khan Vs. Income Tax Appellate Tribunal*).

Facts are that instead of filing an Income Tax appeal against the appellate Tribunal judgment dated 30.11.1999, the petitioner filed present writ petition in the year 2000. The same was entertained and stay order was granted to the petitioners on 30.03.2000. The writ petition was heard and dismissed by this

Court by order dated 31.7.2023 on merits.

Now, the present review application is filed solely on the ground that petitioners ought to have filed an appeal and not the writ petition.

It was the petitioners who chose to file the writ petition, the same was entertained by this Court. The petitioners have enjoyed interim protection for a long period of 23 years and thereafter also the writ petition was heard and decided on merits. Now, the petitioners cannot turn back and claim that they ought to have filed an appeal and, therefore, the order passed on merits should be reviewed and recalled. Petitioners' action is outrightly a mischievous attempt to somehow to get the order recalled which was passed on merits after hearing the petitioners.

We do not find any force in the submissions of learned counsel for the review applicants.

Hence, the review application is ***dismissed***.

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[Vivek Chaudhary, J.]

Order Date :- 18.12.2023

-Amit K-