THE HON'BLE SRI JUSTICE DILIP B. BHOSALE

AND

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.22803 of 2002

ORDER: (Per Hon'ble Sri Justice Dilip B. Bhosale)

By this Writ Petition, under Article 226 of the Constitution of India, the petitioner challenges the order of the respondent, dated 28.02.2002, passed under Section 143(3) read with Section 158BC of the Income Tax Act (for short, the Act), insofar as levy of interest under Section 158BFA(1) of the Act and levy of surcharge under Section 113 of the Act is concerned, and consequently to direct cancellation of demand of surcharge of Rs.91,913/- and interest of Rs.1,97,155/-.

At the outset, learned Counsel appearing for the petitioner placed reliance on the judgment of the Supreme Court in **Commissioner of Income Tax v. Vatika Township P.Ltd.**, to contend that the surcharge levied by the Assessing Officer for the block assessment year pertaining to the period prior to 01.06.2002 deserves to be deleted. Learned Counsel appearing for the respondent does not dispute this submission made by the learned Counsel for the petitioner.

We have perused the judgment of the Supreme Court in **Vatika Township P.Ltd.** (supra), wherein the Supreme Court has taken a view that the surcharge levied by the Assessing Officer for the block assessments pertaining to the period prior to 01.06.2002 is liable to be deleted.

In the circumstances, the demand of surcharge of Rs.91,913/- stands deleted. As a consequence thereof, the demand of interest of Rs.1,97,155/- is set aside, and the matter is remanded to the Assessing Officer to re-determine the interest, leaving all the contentions of the parties open. The Assessing Officer shall complete the exercise within a period of six months from the date of receipt of a copy of this order. It is needless to mention that the Assessing Officer shall grant an opportunity of being heard to the assessee.

With the above observations, the Writ Petition is disposed of. The miscellaneous petitions, if any, stand disposed of. No costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

21.04.2015

vs

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