THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

WRIT PETITION NO.5179 OF 2017

O R D E R

(*Per Hon'ble Sri Justice Sanjay Kumar)*

This writ petition was filed assailing the proceedings dated 29.03.2016 of the Chief Commissioner of Income Tax, Vijayawada, Andhra Pradesh, the 1st respondent herein, holding that the petitioner was not entitled to waiver or reduction of the interest charged under Sections 234A and 234B of the Income-tax Act, 1961 (for brevity, 'the Act of 1961') in relation to the assessment order passed for the assessment year 2004-05.

Sri Vinod Kumar Tadakamalla, learned counsel for the Income Tax Department, however pointed out that the assessment order for the assessment year 2004-05 was rectified by the Income Tax Officer, Ward-2(1), Tirupati, *vide* order dated 14.03.2016 passed under Section 154 of the Act of 1961 but the same was not within the knowledge of the 1st respondent at the time he passed the impugned order.

In the light of this development, consideration by the 1st respondent as to whether the petitioner was entitled to waiver or reduction of the interest payable under Sections 234A and 234B of the Act of 1961 in relation to the earlier assessment order cannot be sustained. The matter would necessarily have to be considered afresh in the light of the rectification order dated 14.03.2016. On this short ground, the impugned order dated 29.03.2016 passed by the 1st respondent is set aside and the matter is remitted to the file of the Chief Commissioner of Income Tax, Vijayawada, Andhra Pradesh, for consideration afresh of the petitioner's application for waiver/ reduction of the interest in the light of the rectification order dated 14.03.2016 passed by the Income Tax Officer, Ward-2(1), Tirupati, under Section 154 of the Act of 1961. All issues are left open for fresh consideration by the 1st respondent.

The writ petition is accordingly allowed to the extent indicated above. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

ANIS, J

28th JUNE, 2017

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