IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16158 of 2017
Date of decision: 26.7.2017

Assam Wood & Allied Products

……Petitioner

Vs.

Chairman, Central Board of Direct Taxes North Block, New Delhi and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ruchesh Sinha, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. Through the instant petition under Articles 226/227 of the constitution of India, the petitioner prays for quashing the orders dated 4.7.2017 and 14.6.2017, Annexures P.19 and P.13 respectively, rejecting its application under Section 144A of the Act and the grievance petition. Further prayer has been made for a direction to the respondents that the diary/note book seized during survey proceedings and the statement be directed to be sent for forensic re-examination to CFSL Chandigarh and to keep in abeyance the assessment proceedings for the assessment year 2014-15 and not to conclude the matter without permission from this Court.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner is a partnership firm based at Jagadhri, Haryana. It is engaged in the

manufacturing and sale of wooden ply. On 28/29th August 2013, a survey operation was conducted under Section 133A of the Act at the business premises of the petitioner. During the course of survey operations, statement of Shri Satish Kumar Goel, partner in the aforesaid firm, was recorded, surrendering undisclosed income of ₹ 8 crores. While Shri Satish Kumar Goel was not allowed to contact any family members, the survey party got a note book/diary written in the handwriting of his son. The entries in the alleged diary did not bear any full name, address etc. The surrender extracted under duress and coercion was retracted by the petitioner vide letter addressed to the Chief Commissioner of Income Tax. However, no reply was received by the petitioner till date. The petitioner requested respondent No.4 to refer the said diary/note book to the Forensic laboratory for their expert opinion on the contention of its having been written in one go at the same time by the same person. Having received no response, the petitioner filed application under Section 144A of the Act before respondent No.3 praying that the said diary be referred to the Forensic laboratory for examination and no reliance be made on the statement which was retracted. Respondent No.3 rejected the application under Section 144A of the Act. The petitioner approached this court through a writ petition. Vide order dated 9.12.2016, this court disposed of the writ petition with a direction to send the diary and the statements for forensic examination. Liberty was also granted to approach this court again if the report of CFSL in whole or in part was not accepted by either of the party. Report dated 17.3.2017 of CFSL was forwarded by respondent No.4 to the petitioner vide letter dated 30.5.2017. In the report, it was stated that it had not been possible to determine the absolute or relative age of the writing in the note book for the reason that no such methodology/technique was available in the laboratory.

The petitioner requested respondent No.4 for sending the note book and statement for forensic reexamination to CFSL Chandigarh. Having heard nothing, the petitioner again filed application under Section 144A of the Act before respondent No.3 with the same prayer. The petitioner also requested that the said report be sent to any other CFSL in India. Vide order dated 4.7.2017, the application was rejected by respondent No.3. Before filing application under Section 144A of the Act, the petitioner filed a grievance petition before respondent No.2 to pursue the matter administratively which was also rejected vide order dated 14.6.2017 by respondent No.2. The petitioner again filed a grievance petition before respondent No. l. Having received no response, the petitioner has approached this court through the instant petition.

3. We have heard learned counsel for the petitioner.

4. From the above factual matrix, it emerges that a survey operation was conducted under Section 133A of the Act at the business premises of the petitioner. Statement of Shri Satish Kumar Goel, partner in the firm was recorded surrendering undisclosed income of ₹ 8 crores. During the survey, a note book/diary written in the handwriting of his son Shri Sumit Goel was seized in which certain transactions were found recorded. The petitioner requested respondent No.4 to refer the said diary to the forensic laboratory for examination as to whether the same had been written in one go at the same time by the same person. Having received no response, the petitioner filed application under Section 144A of the Act which was rejected. Even the grievance application filed by the petitioner was also not found to be justified and the same was also rejected. The petitioner also approached this court through CWP No.20945 of 2016. Direction was given for sending the note book to the forensic laboratory for

examination and liberty was given to either accept or challenge the report or any part or aspect thereof. In such circumstances, it would be open to the petitioner to take all the pleas raised herein challenging the report received from Forensic Laboratory at the time of the framing of the assessment before the assessing authority in accordance with law. The prayer made in this petition for sending it to CFSL, Chandigarh for forensic re-examination and to keep the assessment proceedings in abeyance appears to be an attempt to thwart the finalization of the assessment proceedings. In view of the above, learned counsel for the petitioner has not been able to point out any error in the order passed by respondent No.3 dated 4.7.2017 (Annexure P.19) on an application filed by the petitioner. Equally, no illegality or perversity could be shown in the order dated 14.6.2017, Annexure P.13 passed by respondent No.2 on the grievance petition filed by the petitioner under Section 144A of the Act. Thus, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

July 26, 2017 **(Amit Rawal)**
'gs' **Judge**
Whether speaking/reasoned **Yes**
Whether reportable **Yes**