NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPT No. 34 of 2018

Gaukaran Lal Sahu S/o Late Shri Kejuram Sahu, C/o Shri Madana Lal Jain, Behind Bajrang Akhada, Baniyapara, Dhamtari, Present Address : A-17, Sai Vatika, Devpuri, Raipur (C.G.).

---Petitioner

Versus

1. Principal Commissioner of Income Tax-1, Central Revenue Building, Civil Lines, Raipur, P.S.Civil Lines, Tahsil & District Raipur (C.G.).
2. Commissioner of Income Tax (Appeals)-1, Central Revenue Building, Civil Lines, Raipur, P.S.Civil Lines, Tahsil & District Raipur (C.G.).
3. Assistant Commissioner of Income Tax-2 (1), Central Revenue Building, Civil Lines, Raipur, P.S.Civil Lines, Tahsil & District Raipur (C.G.).

---Respondents

For petitioner	:	Shri S.R.Rao and Shri M.K.Sinha, Advocates.
For respondents	:	Ms.Naushina Afrin Ali, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/02/2018

1. The challenge in the present Writ Petition is to Annexure-P/1 dated 10/11/2017 which is a demand notice raised by the Income Tax Department under Section 156 of the Income Tax Act.

2. The contention of the counsel for the petitioner is that, against the order of assessment dated 29/12/2017, the petitioner has already preferred an appeal which is pending consideration before the Commissioner of Income Tax (Appeals) – 1, Raipur. He submits that, the appeal is still pending consideration and the respondents meanwhile have issued the demand notice and if the demand notice is acted upon or executed, the appeal would get frustrated.

3. The counsel appearing for either side submits that, the issue involved in the present case stands squarely covered by the decision of this Court in WPT No. 66/2017 (Sanjay Kumar Kochhar V. Assistant Commissioner of Income Tax & Anr., decided on 13/07/2017) wherein this Court had directed the petitioner therein to move an appropriate application before the assessing authority seeking for stay of execution of the assessment order and in the event if, the assessing officer rejects the same, the liberty would be with the petitioner to prefer an appeal before the Principle Commissioner of Income Tax challenging the order of the assessing officer under Section 220(6) of the Income Tax Act.

4. In the light of the submissions made by the counsel appearing for either side, the present Writ Petition also deserves to be and is accordingly disposed off in similar terms.

5. The petitioner is directed to move an appropriate application before the assessing officer seeking for stay of the demand notice and in the event if the assessing officer rejects the same, the petitioner would be at liberty to initiate further proceedings as is evolved under instruction No.1914 dated 21/03/1996 which further stands modified vide office memorandum dated 31/07/2017.

6. Needless to mention that, since the appeal is pending consideration, it is expected that the authorities concerned shall decide the appeal as expeditiously as possible.

7. The Writ Petition stands disposed off.

Sd/-
(P. Sam Koshy)
JUDGE

Sumit