NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (T) No. 91 of 2018

Raigarh Ispat & Power Pvt. Ltd., 2nd Floor, Krishna Complex, Chaitanya Nagar, Dhimrapur Road, Raigarh (C.G.) PIN 496001

---- Applicant

Versus

1. Principal Commissioner of Income-Tax (Central) Aaykar Bhawan, Hoshangabad Road, Bhopal (M.P.)
2. Joint Commissioner of Income Tax (Central), C.R. Building, Civil Lines, Raipur (C.G.)
3. Assistant Commissioner of Income Tax, Central, Mahima Complex, Vyapar Vihar, P.S. Tarbahar, Bilaspur (C.G.) Pin – 495001

---- Respondents

For Petitioner	:	Mr. Manoj Kumar Sinhha, Advocate.
For Respondents	:	Mrs. Naushina Afrin Ali, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/05/2018

(1) This writ petition is directed against the assessment order dated 29.12.2017 passed under Section 143 (3) read with Section 147 of the Income Tax Act, 1961 (henceforth “Act, 1961”).

(2) Learned counsel appearing for the petitioner would submit that impugned order is without jurisdiction and without authority of law, which is liable to be set aside and relied upon the judgment rendered by this Court in Writ Petition (T) No. 177 of 2016, decided on 19.06.2017 (***Smt. Kamala Ojha Vs. Income Tax Officer-1 and four others***).

(3) Per contra, learned counsel for the respondents would submit that order of assessment dated 29.12.2017 is appealable under Section 246-A of the Income Tax Act, 1961 (henceforth “Act, 1961”) before the Commissioner, Income Tax (Appeals) and even against order of Commissioner, Income Tax (Appeals), the petitioner can file appeal before the Income Tax Appellate Tribunal under Section 254 of the Act, 1961 and then he has further remedy of filing appeal before this Court under Section 260-A of the Act, 1961 there-against, therefore, the instant writ petition, which is directly filed before this Court, is not maintainable.

(4) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(5) Since the alternative efficacious remedy under Sections 246-A, 254 & 260A of the Income Tax Act, 1961 is available to the petitioner, this Court is not inclined to entertain this writ petition and the judgment in case of ***Smt. Kamla Ojha*** (supra) is clearly distinguishable to the facts of the present case. However, petitioner is granted three weeks' time to prefer appeal before the said authorities and, in turn, the said Authorities shall consider and decide the same on merits in accordance with law expeditiously.

(6) With the aforesaid observations, the writ petition stands finally disposed of.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-