THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.Nos.134 of 2017 and 227 of 2018

COMMON JUDGMENT: (per SK,J)

The question of law sought to be raised by the Revenue in these appeals filed under Section 260A of the Income-tax Act, 1961 (for short, 'the Act of 1961') reads as under:

> ''Whether, on the facts and in the circumstances of the case, the Tribunal is correct in extending stay on collection of taxes beyond 365 days ignoring the third proviso to Section 254(2A) of the Act of 1961, which stipulates that even in case the delay in disposal of main/quantum appeal is not attributable to the assessee, the stay shall stand vacated after the expiry of such period or periods?'

Sri A.V.A.Siva Kartikeya, learned counsel for the respondent-assessee in these two cases, would however inform this Court that this very question of law fell for consideration before another Division Bench of this Court in a batch of appeals, *viz.*, I.T.T.A.No.331 of 2017 and batch. A copy of the common order dated 18.09.2017 passed in the said batch of appeals is placed before us.

The questions of law framed in the said batch of cases read as under:

> i) Whether on the facts and in the circumstances of the case and in law, the Tribunal is justified in extending the stay of collection of taxes beyond 365 days ignoring the third proviso to Section 254(2A) of the Act of 1961?
>
> ii) Whether the Tribunal was justified in keeping the appeals pending for more than one year and extending the stay from time to time in spite of the judgment of this Court in the Assessee's own case for the Assessment Year 2007-08 in I.T.T.A.No.291 of 2013?'

The issue considered in the said batch of cases was directly on the point presently raised. In para 13 of the said common order, the Division Bench observed as under:

> ’13. ... In other words, a stay will not stand automatically vacated under the third proviso to sub-section (2A) of Section 254, unless the Tribunal records a finding that the Assessee was responsible for the procrastination of the hearing of the appeal.’

In the light of the aforestated decision of this Court, we are of the opinion that the question of law raised does not need to be reconsidered. The appeals therefore fail on the ground that the question of law stands settled as on date.

The appeals are accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

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SANJAY KUMAR,J

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T.AMARNATH GOUD,J

Date:21.06.2018

GJ