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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 6731/2018

R. L. TRADERS ..... Petitioner

Through : Sh. K.R. Manjani, Advocate.

versus

INCOME TAX OFFICER WARD 47(1) ..... Respondent

Through : Sh. Asheesh Jain, Advocate.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

<u>O R D E R</u>

% 02.07.2018

The petitioner's grievance is that the impugned order of the Income Tax Appellate Tribunal (ITAT), declining to rectify its previous order, is in error of law.

The petitioner/assessee was aggrieved by the imposition of penalty based upon the findings of the Assessing Officer (AO) that one Sh. Pradeep Kumar Bansal [hereafter "Sh. Bansal"] had provided accommodation entries and that the credit claimed was not genuine. Its appeal before the CIT(A) was unsuccessful as was its further appeal to the ITAT. It, therefore, approached the ITAT again, under Section 254(2) of the Income Tax Act, 1961 [hereafter "the 1961 Act"], contending that the ITAT's previous orders needed rectification because vital facts had been overlooked.

It is urged by the petitioner that the ITAT overlooked a salient fact that no opportunity to cross-examine the said Sh. Bansal was ever provided to it. In this regard, learned counsel relies upon the statement on oath provided during the assessment proceeding and submits that the least that the Revenue could have and ought to have done was to provide an opportunity to it (the assessee) to examine him (Sh. Bansal); in not doing so, the ITAT fell into error.

This Court has considered the overall circumstances of the case. On merits, the petitioner was unsuccessful before the three statutory authorities. Therefore, as far as the appreciation of facts and application of law is concerned, there is no question of interference under Article 226 of the Constitution. In any event, the narrow compass within which this Court is called upon to exercise jurisdiction under Article 226 is to consider whether the ITAT's refusal to rectify its previous order (which was based upon the merits of the matter, including the allegation of denial of natural justice), was illegal.

The Court is of the opinion that having regard to the extremely circumscribed jurisdiction of the ITAT while considering the rectification application, its view cannot be considered unreasonable.

The writ petition is accordingly dismissed as unmerited.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 02, 2018/AJK