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

\+ W.P.(C) 7098/2018

BPTP LIMITED

..... Petitioner

Through: Mr. Piyush Kaushik, Advocate

versus

PRINCIPAL COMMISSIONER OF INCOME TAX (CENTRAL)-III, NEW DELHI

..... Respondent

Through: Mr.Ruchir Bhatia and Mr. Kailash Gautam, DCIT, Central Circle for respondent

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

O R D E R

% **16.07.2018**

The Petitioner is aggrieved by the order of the Income Tax Appellate Tribunal (hereinafter referred to as 'ITAT') of 11th July 2018 consolidating 13 appeals pending before different Benches. The Petitioner is aggrieved by the cryptic and unreasoned order and relies upon the application filed by one of the parties, i.e., the Commissioner of Income Tax on 3rd April 2018 (followed by the application dated 18th June 2018) requesting for consolidating of the appeals. It is submitted that these applications did not disclose any reason as to why consolidation of all appeals, which were pending for a long time and were adjourned at the behest of the revenue by various benches, should be consolidated and listed before one Bench. The Petitioner contends that the procedure adopted is not only curious but contrary to the principles enunciated by it in Olympia Paper & Stationery Stores vs. Assistant Commissioner of Income Tax, (63 ITD 148), which was approved in Dr. Prannoy Roy vs. The Deputy Commissioner of Income Tax & Ors, [**W.P. (C) No. 4742/2018**, decided on 04.05.2018]. It is submitted that in these circumstances, there is no reason why the consolidation order, and the subsequent order of 9th July 2018 which too discloses utter non-application of mind, should be maintained. Learned counsel submits that these orders deserve to be quashed at the threshold. It is also pointed out that later order of 9th July 2018 in fact purports to consolidate an appeal, which was disposed of earlier.

The learned counsel for the Revenue seeks to justify the consolidation submitting that similar factual disputes are involved in Assessee's appeal and it was felt that in the interest of justice, it would be essential to consolidate all the appeals to enable the Bench to discern the common picture. It was submitted that the rationale for consolidation is founded on the request of the Revenue (furnished by Commissioner of Income Tax on 03.04.2018 and supplemented on 18.06.2018).

The record nowhere discloses nor does the Revenue dispute that the ITAT did give any notice to the Petitioner/assessee before issuing the consolidation order. Apparently all these appeals preferred by the appellant were being listed and heard repeatedly by different Benches. The Assessee's counsel submits that the ground of adjournment was that the appeals would be consolidated. Given these circumstances, the Tribunal ought to have at least followed the proper procedure, laid down in *Dr. Prannoy Roy* (supra) and even enunciated by its previous order in Olympia Paper & Stationery Stores (supra). Firstly, it should have given adequate notice to the Appellant on the issue of consolidation and secondly, if the Revenue's request is found feasible and reasonable, indicate brief reason as to why the consolidation was essential. The failure of the ITAT to confirm to salient features vitiates its order.

In these circumstances, the impugned order dated 11th June 2018 and the subsequent order of 9th July 2018 consolidating all appeals are hereby quashed. In case the Revenue wishes to consolidate all these appeals, it shall move a proper comprehensive application before the ITAT, serving a copy in advance to the assessee. The ITAT should issue notice to the Assessee before agreeing on the application and after considering the submission of both the parties, pass a reasoned order.

With aforesaid observations, the present petition filed by the petitioner is allowed and disposed of accordingly.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 16, 2018
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