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

\+ ITA 786/2017

PR. COMMISSIONER OF INCOME TAX-9 ..... Appellant

Through: Mr. Zoheb Hossain, Senior Standing Counsel.

versus

THE NATIONAL SMALL INDUSTRIES CORP. LTD ..... Respondent

Through: Mr. M.P. Rastogi and Mr. K.N. Ahuja, Advs.

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

O R D E R

% **29.01.2018**

The question sought to be urged by the Revenue in its appal under Section 260A of the Income Tax Act, 1961 (‘the Act’) is whether the finding of the Income Tax Appellate Tribunal (ITAT) that the penalty order was time barred in the circumstances of the case is correct.

The Revenue initiated penalty proceedings through notice under Section 274 on 29.10.2012. It contends that it received the notice on 10.10.2012, having previously received the order of ITAT on 19.4.2012 (that order was made on 19.10.2011). It is stated therefore, that the penalty order under Section 271(1)(c) fulfilled the stipulation in Section 275(A)(ii).

The relevant provision i.e. Section 275(A)(ii) provides an outer limit of six months from the end of the month, in which the order of Dy. Commissioner (Appeals), Commissioner (Appeals) or Appellate Tribunal is received by the Chief Commissioner or the Commissioner, "whichever period expires later". In the present case, the assessment was completed on 25.1.1983; The CIT(A) made its order on 3.3.1984. The ITAT rejected the assessee's appeal on 20.11.1986, which resulted in a reference to this Court under Section 256, - through an order of 16.12.1987. That reference was answered on 22.1.2008. This Court notices that so called order of 19.10.2011, which the Revenue relies upon in this case, was merely an intimation that a reference to this Court under Section 256 was answered. Thus, the order of ITAT, which provided the outer limit as starting and end point of limitation in this case, was undoubtedly made on 16.12.1987. Notice in this case was issued on 10.10.2012 – way beyond the period of limitation by almost 25 years. The appeal has no merit and is consequently, dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JANUARY 29, 2018
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