NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 521 of 2018

- Assistant Commissioner Of Income Tax Circle 1(1), Civil Lines, Raipur, Chhattisgarh.

---- Appellant

Versus

- Maruti Clean Coal And Power Ltd. Ward No. 42, Building No. 14, Civil Lines Near Income Tax Colony, Raipur 492001, Chhattisgarh, District Raipur Chhattisgarh.

---- Respondent

For Appellant	:-	Shri Amit Chaudhary, Advocate Ms Naushina Afrin Ali, Advocate Shri Amit Kumrani, Advocate
For Respondent	:-	Shri Amrito Das, Advocate

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Shri Parth Prateem Sahu, J.

Order on Board

By

Prashant Kumar Mishra, Ag. CJ

24/04/2019

1. The Revenue has preferred this appeal challenging the order passed by the learned Single Judge holding that notice for reassessment under Section 148 of the Income Tax Act, 1961 (for short 'the Act') was issued against the assessee without obtaining sanction as required under

Section 151(1) of the Act.

2. Admittedly, the subject reassessment was to be completed before 31st of December, 2017, therefore, during pendency of the writ petition the reassessment order was passed on 28.12.2017, wherein there was no addition to the assessee's income for the relevant assessment year, and as such on merits issue has been rendered infructuous. It happened so because the writ petition was reserved for order on 12.12.2017 and the order was passed on 03.01.2018 however, the reassessment order was passed in between i.e. on 28.12.2017. Thus, at the time of delivery of order the learned Single Judge was not informed about the subsequent development.

3. Despite the above, the Revenue would press this appeal only to the extent that the finding recorded by the learned Single Judge that after recording of reasons by the Assessing Officer (in short referred as 'AO') under Section 148(2) of the Act the Principal Commissioner or the Chief Commissioner is required to record separate reasons while according sanction under Section 151(1) of the Act as necessary prerequisite for issuance of notice under Section 148(1).

4. Section 151(1) is reproduced herein for ready reference:-

Section 151(1) No Notice shall be issued under Section 148 by an Assessing Office, after the expiry of a period of four years from the end relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

5. A plain reading of the provision would reveal that for issuance of notice under Section 148 by Assessing Officer after the expiry of period of 4 years from the date of relevant assessment year, while submitting proposal, the AO is required to record reasons that it is a fit case for issue of notice and thereafter the Principal Chief Commissioner, the Chief Commissioner or the Principal Commissioner is required to be satisfied on the reasons recorded by the AO. The Principal Chief Commissioner or Chief Commissioner is not required to record separate reasons while according sanction and he is only required to be satisfied with the reasons on which the proposal has been forwarded by the AO.

6. In the matter at hand, the Principal Commissioner, while according sanction under Section 151(1) has recorded as follows:-

> **"Yes, I am satisfied that this is a fit case for reopening under expl. 2(c) of Section 147 of the Act. Accordingly, sanction is given u/s. 151(1) of the Act for issue of notice u/s. 148 of the Act.""**

7. The above satisfaction recorded by the Principal Commissioner is in accordance with the requirement under Section 151(1) of the Act for the reason that he is not required to assign separate reasons but is only required to be satisfied with the reasons recorded by AO.

8. Since on merits the matter has been rendered infructuous, we dispose of this Writ Appeal in the above stated terms.

Sd/-
(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Ankit