NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 518 of 2017

(Arising out of order dated 22.09.2017 passed by the learned Single Judge in WPT No. 5437 of 2009)

1. Lalit Kumar Singhania S/o Late Shri Jivanlal B. Singhania, Aged About 67 Years R/o Manjush 15/480, Circuit House Chowk, Civil Line Raipur, Chhattisgarh.
2. Bajrang Power And Ispat Ltd. 522/ C, Urla Industrial Estate, Raipur (C.G.)
3. M/s Chhattisgarh Kshetriya Grih Nirman Sahakari Samiti Maryadit, Raipur (C.G.)
4. Shri Rajkamal Singhania, 15/480, Circuit House Chowk, Civil Lines, Raipur (C.G.)
5. M/s Singhania Enterprises, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
6. Smt. Usha Devi Singhania, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
7. Shri Manish Raj Singhania, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
8. Shri Rohit Singhania, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
9. Shri Rishi Raj Singhania, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
10. M/s Manish Trading Co. 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
11. Smt. Manju Devi Singhania, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)
12. M/s Shiva Enterprises, 15/480, Circuit House Chowk, Civil Lines Raipur (C.G.)

---- Appellants

Versus

1. Commissioner of Income Tax Raipur, Chhattisgarh.
2. Deputy Commissioner, Income Tax, Circle 21, Raipur, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Amrito Das, Advocate.
For Respondent/Revenue	:	Shri Ajay Kumrani, Advocate under instructions of Shri Amit Choudhary, Advocate

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Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

P. R. Ramachandra Menon, CJ.

02.07.2019

1. This appeal arises from the verdict dated 22.09.2019 passed by the learned Single Judge in Writ Petition (T) No.5437 of 2009.

2. Heard the learned counsel for the Appellants as well as the learned Standing Counsel representing the Department / Revenue.

3. During the course of hearing, it is brought to the notice of this Court that the tax liability was finalized by the Settlement Commission in terms of the relevant provisions under the Income Tax Act, which was stated as detrimental to the rights and interest of the Revenue and hence it was challenged by the Department by filing the writ petition before this Court. The learned Single Judge, after considering the merit involved, directed the matter to be re-considered by the Settlement Commission and accordingly, the order under challenge was set aside and remitted the matter back to the Settlement Commission. Similar order was sought to be challenged by the aggrieved assessee by filing appeal, wherein interference was declined and appeal was dismissed as per order dated 23.07.2018 in Writ Appeal No.511 of 2018. When similar matters came up for consideration before the Co-ordinate Bench on a subsequent date, on 06.08.2018, the course pursued was taken note of. The verdict dated 23.07.2018 passed in Writ Appeal No. 509 of 2018 was recorded and the appeal was dismissed in the following terms :

> “After hearing learned counsel for the parties, we find that the learned single judge has set aside the order of Settlement Commission only on the ground that it has not decided anything and because of the direction issued by the High Court, has simply closed the matter without application of mind.
>
> Though learned counsel for the appellant strenuously urged this Court to examine the subsequent situation on account of amendments in the law, we are not inclined to go into this aspect as an authority of original jurisdiction when the Settlement Commission has completely abdicated its function to examine the matter on the basis of the law existing on the date of consideration.
>
> It would be open for the appellant herein to raise all contentions before the Settlement Commission including all such arguments as may be available to him on the basis of subsequent amendments.
>
> We should make it clear that we have not commented upon the merits of petitioner's case with regard to his

> entitlement to settlement according to his application filed before the Settlement Commission in accordance with the provisions of law.
>
> This appeal is accordingly dismissed."

4. In the above circumstances, we are of the view that this matter is also liable to be finalized in terms of the verdict passed by this Court. It is ordered accordingly and the appeal stands dismissed as above.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

Hem