S/L 119
09.09.2021
Court. No. 2
cm

WPA 14481 of 2019
Harerram Koley
Vs.
Union of India & Ors.
(Through Video Conference)

Mr. Suryaneel Das
... For the Petitioner

Mr. Dhiraj Trivedi
Mr. Soumen Bhattachajee
Mr. Bikash Kr. Singh
.... For the Union of India

Heard both the parties.

In this matter, petitioner has made prayer for allowing filing a revised return for the relevant assessment years 2011-12 and 2012-13 by claiming to have committed a mistake of describing himself in the original 'Return' as a "resident" instead of "non-resident" and such mistake invited for taxation which according to him was exempted from tax. From record, I find that on the basis of such return, summary Assessment under Section 143(1) of the Income Tax Act, 1961 was passed. Thereafter petitioner has filed statutory appeal against that summary order before the Commissioner of Income Tax (appeals), there he lost. He further challenged the order of the First Appellate Authority before the Income Tax Tribunal, there also he lost. The order of the Tribunal is further appealable under Section 260 A of the Income Tax Act. In my considered opinion when the Tribunal has dismissed the appeal of the petitioner on merit, sitting in writ jurisdiction under Article 226 of the Constitution, I cannot grant the relief prayed for filing of the revised return since the issue has not only reached its finality by assessment order but also confirmed by the First Appellate Authority and the Second Appellate Authority. The relief asked for by the petitioner in this writ petition, if I grant that would amount to nullifying all the aforesaid orders of the three authorities, and it will be highly improper to do so in exercising power under Article 226 of the Constitution of India.

In view of the discussion made herein this writ petition being WPA 14481 of 2019 is dismissed.

However, dismissal of this writ petition will not prevent the petitioner from availing the remedy if any, available to him under law against the order of the Tribunal.

(Md. Nizamuddin, J.)