Item no. 10

IN THE HIGH COURT AT CALCUTTA

CIVIL APPELLATE JURISDICTION

APPELLATE SIDE

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Hiranmay Bhattacharyya

MAT 228 of 2023

with

IA No. CAN 1 of 2023

Kishor Kumar Mundhra

vs.

Union of India & ors.

Appearance:

For the Appellant	:	Mr. Sutirtha Das
For the Respondents	:	Mr. S. Bhattacharya
Heard on	:	02.03.2023
Judgment on	:	02.03.2023

T.S. Sivagnanam J.:

This intra-Court appeal has been filed by the writ petitioner is based on the presumption that the order passed by the learned Single Judge dated 03.02.2023 does not extend the benefit of the interim order in favour of the appellant pursuant to the order passed by the Division Bench dated 1st September, 2022. The relevant portion of the order reads as follows :

> *"4. In the light of the above, the appeal and the application stand disposed with a direction to the respondents / department to file their affidavit-in-opposition in the writ petition within three weeks from date. The appellant is granted two weeks time therefrom to file reply, if any. Thereafter, the matter shall be listed before the learned Single Bench for hearing, which subject to the convenience of the learned Single Bench shall be listed after eight weeks from date.*
>
> *5. Till such time, the respondents / department are directed to maintain status quo and not to proceed further pursuant to the notice issued under Section 148 of the Act dated 22nd April, 2022. The appellant cannot raise the plea of limitation merely on the ground that such order has been granting interim protection to the appellant till the writ petition is heard and disposed of."*

According to the learned counsel for the appellant the reading of the paragraph 5 would show that the interim order was limited and the appellant could not file the affidavit-in-reply and sought for extension of time. In such circumstances, the interim order was not extended.

We have heard the learned counsel for the parties at length.

On a combined reading of paragraphs 4 and 5 of the order passed by the Division Bench dated 01.09.2022, it would show that the Department should not proceed pursuant to the notice issued under Section 148 of the Income Tax Act dated 22.04.2022 and they were directed to maintain status quo. According to the learned counsel for the appellant the words "Till such time" gives an impression as if the Division Bench had restricted the interim order. The order passed by the Division Bench takes care of the issue, till the writ petition is heard and disposed of, the Department has to maintain status quo.

With the above clarification, both the appeal and the connected application stand **disposed of**. The appellant shall file affidavit-in-reply to the affidavit-in-opposition not later than 17.03.2023.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)

RP/Amitava (AR. CT.)