Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.554 OF 2022

VASSUDEVA DEMPO FAMILY PRIVATE TRUST THR. ATTORNEY SHARMILA SANDEEP PRABHU ...Petitioner

Versus

THE DEPUTY COMISSIONER OF INCOME TAX AND 2 ORS ... Respondents

Mr. Mihir Naniwadekar with Ms. Pooja Naik and Mr. Rohan Deshpande, Advocates for the Petitioner.

Ms. Amira Razaq, Standing Counsel for Income Tax Department for Respondent Nos.1 and 2.

Mr. S. Karpe, Standing Counsel for Respondent No.3.

CORAM: M. S. SONAK & BHARAT P. DESHPANDE, JJ.

DATED: 6th FEBRUARY,2023.

P.C.:

1. Heard Mr. Mihir Naniwadekar who appears along with Ms. Pooja Naik and Mr. Rohan Deshpande, learned Counsel for the petitioner, Ms. Amira Razaq, learned Standing Counsel for Income Tax Department for respondent Nos.1 and 2 and Mr. S. Karpe, learned Standing Counsel for Respondent No.3.

2. The challenge in this petition is to the order dated 14/10/2022 made by the Deputy Commissioner Income Tax Circle-1 Panaji rejecting the petitioner's application seeking immunity.

3. In the affidavit in reply filed by the Deputy Commissioner, it is submitted that though an appeal might not lie against the impugned order, remedy of revision would be applicable. The affidavit also relies on the decision of the coordinate Bench of this Court in ***Haren Textile (P) Ltd. v/s. Principal Commissioner of Income Tax 4, Mumbai***[1]. This objection based on availability of alternate remedy is reiterated by Ms. Razaq, learned Standing Counsel for respondent Nos.1 and 2.

4. Considering the above objection and without going into the other issues sought to be raised by Mr. Naniwadekar, we relegate the petitioner to avail of the remedy of revision under Section 264 of the Income Tax Act. In support, we follow the course adopted by the coordinate Bench in ***Haren Textile (P) Ltd.***(supra).

5. Mr. Naniwadekar states that necessary revision petition will be instituted within two weeks from today. Accordingly, in the interest of justice, we clarify that the time spent by the petitioner in prosecuting this petition should be excluded for determining the issue of limitation, if any. Further, the interim relief granted by this Court on 29/11/2022 is extended for a period of six weeks from today or until the petitioner's application for interim relief before the revisional authority to consider whether the revision petition should itself be disposed of expeditiously

1 [2021] 132 taxmann.com 39 (Bombay) considering the short issue involved.

6. Thus, by leaving contentions of the parties on merits open we dispose of this petition in the above terms. There shall be no order for costs.

7. All concerned to act on the basis of an authenticated copy of this order.

BHARAT P. DESHPANDE, J. **M. S. SONAK, J.**

MEENA VISHAL BHOIR Digitally signed by MEENA VISHAL BHOIR Date: 2023.02.07 10:40:47 +05'30'