

20.08.2024
Item No.3
gd/ssd

MAT/198/2024
SITARAM SHARMA
VS
ASSISTANT COMMISSIONER OF INCOME TAX,
CIRCLE
40, KOLKATA AND ORS.
IA NO: CAN/1/2024

Mr. Anujit Mookherji,
Mr. Prithish Chandra
..for the Appellant.

Mr. Om Narayan Rai
..for the Respondents.

1. This intra court appeal by the unsuccessful writ petitioner who challenged the reassessment order dated 4th June, 2023 passed under Section 147 of the Income Tax Act, 1961 for the assessment year 2018-19.

2. The earlier order was passed under Section 147 which was set aside by the learned Single Bench of this court and the matter was remanded for fresh consideration as an opportunity of cross-examination was not afforded to the appellant/writ petitioner.

3. Upon remand such an opportunity was granted and the authority has passed the reassessment order under Section 147 given reasons.

4. According to the learned advocate for the appellant, in the cross-examination of Jai Bhagwan Agarwal he has admitted that he does not know the assessee.

5. As pointed out by the learned standing counsel for the department, before the settlement commission the said Jai Bhagwan Agarwal has taken a different stand.

6. In any event the matter being fully factual, the learned writ court was fully justified in not entertaining the challenge to the said reassessment order by way of a writ petition and relegating the matter to avail the statutory appeal remedy available under the Act.

7. Thus, we find no grounds to interfere with the order passed by the learned Single Bench.

8. Accordingly appeal fails and dismissed.

9. After we have passed the above order, the learned advocate appearing for the appellant submitted that if an appeal is filed, there is a likelihood the appeal will be rejected on the ground of limiation.

10. If the appellant files the appeal before the statutory appellate authority, the period during which the writ petition was pending till the receipt of the server copy of this order shall be excluded for the purpose of computation of limiation.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)