30.01.2024
Item No.19
gd/ssd

MAT/2386/2023
IA NO: CAN/1/2024
DINESH KUMAR GOYAL
VS
THE UNION OF INDIA AND ANR.

Mr. Pratyush Patwari
..for the Appellant.

Mr. Soumen Bhattacharjee
..for the Respondent/Income Tax.

1. This intra court appeal by the writ petitioner is directed against the order dated 5th October, 2023 in WPA 22384 of 2023 by which the learned writ court directed affidavit to be filed by the department and adjourned the matter.

2. The appellant is aggrieved in the learned writ court not granting any interim order.

3. The learned advocates on either side have requested that the writ petition itself be disposed of along with this appeal.

4. With the consent of the either side is recorded, the writ petition along with this appeal are taken up for disposal by a common judgment and order.

5. Challenging to the order passed under Section 148A(d) of the Income Tax Act, 1961 dated 4.5.2023 is solely on the ground that the proceedings are time barred. Further, it is contended that though two replies were filed to the show cause notice issued

under Section 148A(b) of the Act, the authority has considered only one of the replies and has not dealt with the issue relating to the limitation point canvassed by the appellant.

6. In the light of the above, we are of the view that the matter can be remanded back to the assessing officer to consider all issues in a comprehensive manner including the point canvassed by the appellant regarding the limitation aspect.

7. For the above reasons, the appeal and the writ petition are disposed of by setting aside the order dated 4.5.2023 passed under Section 148A(d) of the Act and the matter stands remanded back to the assessing officer for a fresh decision.

8. The assessee shall appear before the assessing officer and seek for perusal of all the documents which they have sought for and thereafter file a comprehensive further reply within two weeks from the date of perusal of those documents after which an opportunity of personal hearing be granted to the authorized representative of the appellant and fresh orders be passed by the assessing officer on merits and in accordance with law.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(SUPRATIM BHATTACHARYA, J.)