2024:BHC-AUG:7381-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3333 OF 2024

Pralhad Dnyandev Karale
VERSUS
The Union Of India Through Its Income Tax Officer

Mr. V. S. Undre, Advocate for the Petitioner
Mr. Alok Sharma, Advocate for the Respondent

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 1st April, 2024

PER COURT :-

1. The impugned order is passed on 24th March, 2022 and this Petition has been filed on 7th March, 2024, which is practically after two years. The learned Advocate for the Department submits that a final order under Section 147 read with Section 148 of the Income Tax Act, 1961 has already been passed on 28th March, 2024.

2. Apparently, the Petitioner has filed this Petition belatedly. In similar circumstances, the Division Bench of the Delhi High Court has delivered an order dated 22nd March, 2024 in the matter of ***Indian National Congress Vs. Deputy Commissioner of Income Tax Central-19 and Anr.*** in ***W.P. (C) 4264 of 2024 & CM Nos. 17433/2024 & 17435/2024*** and other connected matters. For the sake of brevity, paragraph 35 and 36 are reproduced as under:

"35. The writ petitioner has thus chosen to approach this Court only a few days before the time for completion of assessment would expire and at the proverbial fag end of the proceedings. We consequently find no justification to interdict the assessment proceedings at this belated stage by invoking our jurisdiction under Article 226 of the Constitution. However and whether the asserted delay in commencement of proceedings would be fatal to the assessment itself is a question that we leave open to be urged at an appropriate juncture.

36. Accordingly and subject to the aforesaid observations, we dismiss these writ petitions. All pending applications shall stand disposed of."

3. The learned Advocate for the Petitioner places reliance on the following judgments:

(i) Shukla Enterprises Private Limited Vs. Assistant Commissioner of Income Tax- Circle 22(2) Delhi and Anr in W.P.(C) 3957/2023, dated 28.03.2023 (Delhi High Court)

(ii) Majestic Handicraft Private Limited Vs. Deputy Commissioner of Income Tax in W.P. (C) 3797/2023, dated 27.03.2023 (Delhi High Court)

(iii) Ornate Agencies Private Limited Vs. Acit circle 19(1) New Delhi and Anr. in W.P.(C) 3671/2023 (Delhi High Court)

(iv) Hosdurg Beedi Workers Industrial Service Type Co-operative Soceity Ltd. Vs. The Income Tax Officer and Another in WP (C) No. 13984 of 2023, dated 23.08.2023 (High Court of Kerala at Ernakulam)

(v) Koyambrath Puthiyapurayil Mohammed Kunhi Vs. The Income Tax Officer in WP(C) No. 28069 of 2023 dated 25.09.2023 (High Court of Kerala at Ernakulam).

4. The learned Advocate for the Respondent places reliance on the judgments of the Calcutta High Court in ***Lakshman Prasad Agarwal Vs. Union of Iindia and Others, WPO 2006 of 2022 decided on 20-05-2022*** and of the Hon'ble Supreme Court of India in ***Commissioner of Income Tax and Others Vs. Chhabil Dass Agarwal, (2013) 8 AD (SC) 620***.

5. The learned Advocate for the Petitioner submits that the Petitioner may be granted the liberty to raise all grounds in the Appeal proceedings that are now to be filed under Section 148 of the Act.

6. In view of the above, **this Writ Petition is disposed off**. The request of the Petitioner that all the contentions of the Petitioner may be considered in the Appeal, does not require any comments since the Income Tax Authorities are duty bound to deal with all the contentions that are raised by the Petitioner in the appeal to be filed.

(R. M. JOSHI, J.) **(RAVINDRA V. GHUGE, J.)**

ssp