IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4725 OF 2024

Shot Formats Digital Production Pvt. Ltd. ...Petitioner
Versus
Pr. Commissioner of Income Tax (NFAC) & Ors. ...Respondents

Mr. Sachin Mishra for Petitioner.

Mr. P. A. Narayanan for Respondents.

CORAM: G. S. KULKARNI & ADVAIT M. SETHNA, JJ.

DATE: 18 NOVEMBER 2024

P.C.

1. This is another case where the petitioner / assessee is required to approach this Court involving its jurisdiction under Article 226 of the Constitution of India being aggrieved by the fact that although the petitioner has filed an appeal before the Commissioner of Income Tax Appeal on 25 April 2016, the same is not being taken up despite repeated reminders / applications as made by the petitioner.

2. Learned counsel for the petitioner has brought to our notice that in similar circumstances this Court in the case of **City Centre Mall Nashik Pvt. Ltd. Vs. National Faceless Appeals Centre New Delhi and Ors.** in Writ Petition (L) No.26851 of 2024 decided on 8 October 2024, was confronted with a similar issue of an appeal not being decided for a period of eight years by the Commissioner of Income Tax Appeals. In such context this Court had made the following observations:

> " This Petition, under Article 226 of the Constitution of India, brings before the Court a case involving the substantial failure on the part of the Appellate-Authority – namely the Commissioner of Income Tax (Appeals) [CIT (A)] under the Income Tax Act, 1961, who even after a period of more than 8 years, has not decided the Petitioner's Appeal which was filed on 18th March, 2016, which assailed the Order passed by the Assessing Officer, dated 17th February, 2016 under Section 143 (3) read with Section 147 of the Income Tax Act, 1961.
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> 2 We need not advert to the facts of the case as it is not in dispute that, despite such unduly long delay of more than 8 years, the Appeal of the Petitioner is not decided, and for which the Petitioner is required to approach this Court.
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> 3 We wonder as to what justification can be provided by the Respondent, and, even if any justification is provided, whether, considering the settled principles of law of the Income Tax Act, it would at all be possible to accept any such justification. Such state of affairs, in our opinion, is quite disturbing. The remedy of appeal as provided under the Act, which any Court would intend a party to exhaust, itself is frustrated by such an approach on the part of the CIT (A). With the introduction of the faceless scheme under the Act, with effect from 13th August, 2020, there would not be any justification for the pending Appeal not being taken up and disposed of.
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> 4 In view of the above, we called upon Mr. Sharma, the learned Counsel for the Respondent, to take instructions. Although we requested Mr. Sharma to take instructions,in our view, considering that the parties are coming to the Court, the Department, at the hightest level itself, ought to have taken an initiative and issued necessary instructions to the CIT (A), to take up such pending Appeals so that such proceedings do not remain pending.
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> 5 Be that as it may, Mr. Sharma has fairly stated that the Petitioner's Appeal will be decided within three months from today. Hence, not taking the case any forward, we dispose of this Petition with a direction that the Petitioner's Appeal, which is pending for almost 8 years before the CIT (A), be decided within a period of 3 months from today.
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> 6 All the contentions of the parties in pending proceedings are expressly kept open. A copy of this Order be also forwarded by Mr. Sharma to the Secretary, CBDT, for appropriate instructions to be issued with regard to such cases, which, in our opinion, is in fact counter productive to the interests of the Revenue.
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> 7 Disposed of in the aforesaid terms. No cost."

3. It appears that our directions have not reached the appropriate quarters and despite such orders the assessees are required to approach this Court.

4. In this view of the matter, we have not alternative but to dispose of this petition in similar terms that is by directing the CIT(A) to decide the petitioners' appeal within three months from today and without any further extension. Ordered accordingly.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI , J.)**