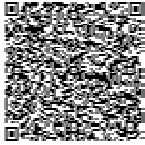


2024:PHHC:138037-DB



CM-9592-CWP-2024 in/and
CWP-7799-2024 (O&M)
Date of Decision: 22.10.2024

Kuldeep ...Petitioner

Vs.

Union of India and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. J.P. Sharma, Advocate for the petitioner.
Mr. Varun Issar, Sr. Standing Counsel for the revenue.

SANJEEV PRAKASH SHARMA, J.(Oral)

CM-9592-CWP-2024

Application for placing on record reply, is allowed subject to all just exceptions. Reply is directed to be placed on record accordingly.

CWP-7799-2024 (O&M)

1. Learned counsel for the petitioner has pointed out that the petitioner is a farmer. The amount deposited in the bank of Rs.1 Crore was the advance received for selling of his land but the same could not be completed on account of partition of the land could not take place. It is stated that the amount of Rs.82 Lakh was returned by the petitioner to the purchaser.
2. The respondents have passed an assessment order holding income of the petitioner to the tune of Rs.1 Crore. Appeal was filed but the same is not being entertained on account of shortage of pre-deposit. Learned counsel

submits that appeal filed by the petitioner ought to be decided without imposing condition of pre-deposit.

3. Reply has been filed by the respondents-department, which is taken on record. As per the reply, the respondents have stated that the petitioner has not produced any documentary evidence with regard to deposit of Rs.1 Crore cash in the bank. Learned counsel submits that accordingly the tax demand was raised and the petitioner’s ought not be allowed to be heard without payment of 10% of the outstanding demand.

4. We have considered the submissions.

5. The assessee had declared his income as Rs.1,98,890/- for the AY: 2013-14 which has been enhanced by the department to Rs.1 Crore more.

6. Taking into consideration the financial condition of the petitioner and also taking into consideration the judgment of the Hon’ble Supreme Court in the case of Kotak Mahindra Bank Pvt. Ltd. vs. Ambuj A. Kasiliwal 2021 (2) Scale 593, we direct the respondents to consider the appeal of the petitioner by waiving the pre-deposit condition of 10% of the demand.

7. The petition is allowed accordingly. The petitioner would be free to place all the documentary evidence with regard to his contentions, before the Appellate Authority.

8. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

22.10.2024

rajesh	1. Whether speaking/reasoned?	:	Yes/No
	2. Whether reportable?	:	Yes/No