IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RA-CW-411-2024 (O&M)
in CWP No. 6288 of 2001

Reserved on : 18.10.2024
Date of Pronouncement : 22.10.2024

Shri Sant Lal and others ... Applicants/ Petitioners

Versus

The Income Tax Settlement Commission and others ...Non-applicants/ Respondents

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

Present: Mr. S. K. Mukhi, Advocate and
Mr. Iqbal Roshan, Advocate, for the applicants/ petitioners.

Ms. Gauri Neo Rampal, Senior Standing Counsel for the non-applicants/ respondents. (Through Video conferencing)

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SANJEEV PRAKASH SHARMA, J.

The review petition has been preferred seeking review of the judgment passed by this Court on 02.09.2024 whereby the writ petition was allowed in part. The order was pronounced in the open Court and contention of the learned counsel for the petitioners was recorded. In the judgment, we have itself recorded that counsel for the applicants/ petitioners was complaining that he was not having been heard at length.

2. Learned counsel for the applicants/ petitioners has filed this review petition wherein he has again made certain allegations of having not been confronted to the provisions which were noticed by the Court. It was stated that he had not been confronted with the judgment in ITA No. 21 of 2012- ***Shelly Mehta vs Commissioner of Income Tax, Central Circle, Ludhiana and another*** decided on 30.08.2024. He has attempted during the course of arguments to distinguish the judgment of ***Shelly Mehta*** (supra) wherein this Court had laid down certain principles and submitted that in the

facts of the present case, the amount ought to have been adjusted against the advance tax. The relevant para from ***Shelly Mehta*** (supra) is extracted below:-

> *"17. In the wake of above discussion and findings, we are of the considered opinion that amount seized from the possession of Sarup Chand could not be treated as cash belonging to appellants from the date of seizure and it could not be adjusted on the said date against their tax liability. The Revenue has correctly adjusted seized cash from the date of framing of assessment and charged interest under Section 234B on delayed payment of advance tax."*

3. The scope of review has recently been considered by the Apex Court in ***Sanjay Kumar Aggarwal vs State Tax Officer (1) and another*** 2024 (2) SCC 362; 2023 INSC 963. The Apex Court has considered the law as has been held in ***Sajjan Singh and others vs State of Rajasthan*** AIR 1965 SC 845; Union ***of India vs Nareshkumar Badrikumar Jagad and others*** (2019) 18 SCC 586; ***M/s Northern India Caterers (India) Limited vs Lt. Governor of Delhi*** (1980) 2 SCC 167; ***Parsion Devi and others vs Sumitri Devi and others*** (1997) 8 SCC 715; ***Shanti Conductors Private Limited vs Assam State Electricity Board and others*** (2020) 2 SCC 677; and ***Shri Ram Sahu (dead) through legal representatives and others vs Vinod Kumar Rawat and others*** (2021) 13 SCC 1 and observed as under:-

> *"16. The gist of the afore-stated decisions is that: -*
> *(1) A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.*
> *(ii) A judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.*

(iii) An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.

(iv) In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected."

(v) A Review Petition has a limited purpose and cannot be allowed to be "an appeal in disguise."

(vi) Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.

(vii) An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(viii) Even the change in law or subsequent decision/ judgment of a co-ordinate or larger Bench by itself cannot be regarded as a ground for review."

4. We, therefore, do not find any of the aforesaid situations arising in the present case so as to review our earlier order. It is now well settled that a party is not entitled to seek review merely for the purpose of re-hearing and fresh decision of the case.

5. The review petition is, accordingly, dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

22.10.2024 **(SANJAY VASHISHT)**
vs **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No