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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4776/2024**

MS HIMALAYA FIBERTECH PVT LTD Petitioner

Through: **Mr. Vaibhav Sharma, Advocate**

Versus

INCOME TAX DEPARTMENT AND ANR..... Respondents

Through: **Mr. Vipul Agarwal, Sr. SC**
alongwith Mr. Gibran Naushad
and Ms. Sakashi Shairwal, Jr.
SCs. for ITD
Mr. Raj Kumar Yadav,
Advocate for UOI

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR
KAURAV

ORDER

02.04.2024

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1. This writ petition has been preferred seeking the following reliefs:-

“a) To issue a writ in the nature of Mandamus and/or any other appropriate writ/order/direction to the effect that the respondent no.1 be directed to decide the first appeal as filed by the petitioner on merits and accordingly pass a speaking order thereto.

b) Pass such other Writ, Order or Direction or any other Appropriate Writ, Order or Direction as this Hon'ble Court deems fit and proper.

c) Award costs of the petition in favor of the petitioners and against the respondents.”

2. Bearing in mind the fact that the petitioner fails to disclose or assert that the first appeal preferred by the writ petitioner is the oldest pending before the concerned First Appellate Authority, we find no



justification to frame a peremptory direction for its out of turn disposal. We must bear in mind that in the absence of adequate details with respect to the status of the board of a particular appellate authority, it would be wholly incorrect for this Court to invoke its extraordinary jurisdiction and pass directions granting precedence to one matter over the other. It is ultimately for the appellate authority to manage its board bearing in mind the vintage of matters pending before it and structuring hearings accordingly.

3. We also bear in mind the note of caution which stands rendered by the Constitution Bench of the Supreme Court in the case of **High Court Bar Association, Allahabad v. State of U.P. and Others** [2024 SCC OnLine SC 207] where the Court had noted the deleterious impact that such directions may have. The relevant paragraphs of the said decision are culled out hereinbelow:-

“41. Therefore, constitutional Courts should not normally fix a time-bound schedule for disposal of cases pending in any Court. The pattern of pendency of various categories of cases pending in every Court, including High Courts, is different. The situation at the grassroots level is better known to the judges of the concerned Courts. Therefore, the issue of giving out-of-turn priority to certain cases should be best left to the concerned Courts. The orders fixing the outer limit for the disposal of cases should be passed only in exceptional circumstances to meet extraordinary situations.

42. There is another important reason for adopting the said approach. Not every litigant can easily afford to file proceedings in the constitutional Courts. Those litigants who can afford to approach the constitutional Courts cannot be allowed to take undue advantage by getting an order directing out-of-turn disposal of their cases while all other litigants patiently wait in the queue for their turn to come. The Courts, superior in the judicial hierarchy, cannot interfere with the day-to-day functioning of the other Courts by directing that only certain cases should be decided out of turn within a time frame. In a sense, no Court of law is inferior to the other. This Court is not superior to the High Courts in the judicial hierarchy. Therefore, the Judges of the High Courts should be allowed to set their priorities on a rational basis. Thus, as far as



setting the outer limit is concerned, it should be best left to the concerned Courts unless there are very extraordinary circumstances.”

[Emphasis supplied]

4. The petition consequently fails and shall stand dismissed. This order, however, shall not preclude the writ petitioner from moving the concerned authority for expeditious disposal.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

APRIL 2, 2024

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