11.02.2025
Item No.6
RP/SM
Ct. No.01

<u>MAT 149 of 2025</u>
with
<u>CAN/1/2025</u>

Indira Trust Applicant Trust Running/Owning Panisheola Indira Smriti Vidyapith & Anr.
Vs.
Union of India & Ors.

Mr. Himangshu Kumar Ray
Mr. Subhasis Podder
Mr. Subal Saha
Mr. Sushant Bagaria
Mr. Piyas Choudhury
Mr. Amit Saha

....For the Appellants

1. Since the department is not represented by the counsels, we nominate Mr. Om Narayan Rai, learned Senior Advocate assisted by Mr. Soumen Bhattacharya, learned standing counsel for the respondent department and their appearance be regularized.
2. This appeal filed by the unsuccessful writ petitioners is directed against the order dated 10th January, 2025 passed in WPA 11345 of 2024 by which the appellants had not only challenged the re-assessment order dated 8.3.2024 but also challenged the validity of reopening pursuant to the notice issued under Section 148 of the Income Tax Act, 1961. In our opinion, the learned Single Bench rightly relegated the appellants to avail the statutory remedy of appeal which has been provided under Section 246 of the Act.

3. Mr. Ray, learned advocate appearing for the appellant/assessee would vehemently contended that there is gross violation of principle of natural justice and the assessing authority did not accede to the request made by the assessee for physical verification of all necessary documents of the assessee to the satisfaction of the Assessing Officer and this has led to an order adverse to the interest of the assessee.

4. As could be seen from the relevant dates and events that after the notice was issued under Section 148 of the Act, the assessee had filed its reply and the Assessing Officer having not been satisfied proceeded to re-assessment proceeding by issuing notice under Section 142(1) of the Act on two occasions. It appears that in one of such notices dated 31.07.2023 the assessee did not respond but for the earlier notice dated 24.7.2023 it appears that the assessee gave a part response. Similarly, the assessee did not respond to the letter dated 7.7.2023 but gave part response to the letter dated 24.07.2023, 01.08.2024 and 23.2.2024. Thus, it is seen that several factual issues are to be gone into and it is not clear as to how the assessee would be justified in giving part reply for notice issued under Section 147 of the Act. Be that as it may, the assessee had participated in re-assessment proceeding and the reassessment order has been drawn on 8.3.2024 and,

thus, the assessee filed the appellate remedy provided under the Act.

5. For the above reasons, we find no ground to interfere with the order and direction issued by the learned Single Bench. Accordingly, the appeal and the connected application stand dismissed. However, if the appellant/assessee files the appeal before the statutory authority within fifteen days from the date of receipt of the server copy of this order, the Appellate Authority shall not reject the appeal on the ground of limitation. The appellants/assessees are at liberty to canvass all factual and legal issues in the appeal.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)