25.03.2025
Item No.20
gd/ssd

MAT/290/2017
ANJANI GOLD PRIVATE LIMITED & ANR.
VS
INCOME TAX OFFICER, WARD NO. 9(1), KOLKATA
& ORS.

Mr. Abhratosh Mazumder,
Mr. Bhaskar Sengupta
..for the Appellants.

Mr. Vipul Kundalia,
Mr. Soumen Bhattacharjee,
Mr. Dhirodatta Chaudhuri
..for the Respondents.

1. This intra court appeal by the writ petitioners is directed against the order direction dated 28th February, 2017 in WP 5353(W) of 2017.

2. By this impugned order the learned writ court upheld the order passed under Section 127 of the Income Tax Act, 1961 dated January 30, 2017 as it was passed after giving adequate opportunity of hearing to the appellant/assessee. Furthermore, the learned writ court found that the order of transfer contends various reasons and none of the reasons has been substantiated to be perverse. Accordingly, the writ petition was disposed of leaving it open to the transferred authorities to raise fresh demands and to proceed in accordance with law against the appellant/writ petitioners.

3. At the time when the appeal was heard, the order of transfer passed under Section 127 of the Act

was stayed by the Division Bench by order dated 18.5.2017. The order continued to remain in force and continues to remain in force till date. When the matter was heard earlier i.e. on 18.2.2025, we directed the assessing officer, namely, ITO, Ward No.9(1), Kolkata to give specific written instruction in the matter as to what is the present state of affairs. Written instruction has been given on various issues from which instruction contained in serial no.15 dated 17.3.2025 would be relevant which states that till date the jurisdiction of the assessee is vested with ITO, Ward No.9(1), Kolkata.

4. In the light of the above stand taken by the department and also taking note of the fact that more than eight years have passed after the order of transfer, we direct that the assessment file of the appellant/assessee shall continue with ITO, Ward No.9(1), Kolkata or within the jurisdiction of any other assessing officer in Kolkata unless and until a fresh case is made out for transfer by exercising of jurisdiction under Section 127 of the Act.

5. In the light of the above reasoning given by the learned Single Bench we are not inclined to interfere with, but the jurisdiction be retained within Kolkata on account of the long lapse of time and the specific written instruction given by the department.

6. With the above directions, the matter stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)