18.02.2025
Item No.18
gd/ssd

MAT/1095/2024
SANSUDHA SECURITIES PRIVATE LIMITED
VS
UNION OF INDIA AND ORS.
IA NO: CAN/2/2024

Mr. J.P. Khaitan, ld. Senior Counsel,
Mr. Protush Jhunjhunwala,
Mr. Mriganka Kejriwal,
Mr. Nikunj Berlia,
Mr. Mosarat Reyaz
..for the Appellant.

Mr. Tilak Mitra
..for the Respondent.

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1. We have heard the learned senior advocate appearing for the appellant and the learned standing counsel appearing for the respondent/department.

2. By the order dated 1st October, 2024 the delay in filing the appeal was condoned. In the said order it was observed that the learned Single Bench in the impugned order had not decided the legal issue which was canvassed, namely, the applicability of the old provisions of the Income Tax Act after the same was substituted by the Finance Act, 2021 had proceeded to make certain observations on merits and dismissed the writ petition. The court also took note of the fact that at the said juncture the Hon'ble Supreme Court had concluded the hearing of the appeals before it and judgment was reserved. The Hon'ble Supreme Court in the case of *Union of India & Others v. Rajeev Bansal* in

[2024] 469 ITR 46 (SC) has delivered the judgment and has drawn its conclusions in paragraph 114 of the judgment at page 135 of the report. The sum and substance of the decision of the Hon'ble Supreme Court is that after April 1, 2021, the Income Tax Act has to be read along with the substituted provisions; Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 will continue to apply to the Income Tax Act after April 1, 2021 if any action or proceeding specified under the substituted provisions of the Income Tax Act falls for completion between March 20, 2020 and March 31, 2021. Further, it was held that if the time limit of three years for the end of an assessment year falls between March 20, 2020 and March 31, 2021, then the specified authority under Section 151(i) has extended time till June 30, 2021 to grant approval. Thus, in the light of the decision in Rajeev Bansal, the legal issue has been settled and it has been held against the assessee. In paragraph 114 the computation of the time and what the assessing officer was required to do has been mentioned in sub-para (g) and sub-para (h) of Para 114.

3. Undoubtedly, this exercise is required to be done by the assessing officer bearing in mind the legal principle which has been laid down with regard to the effect of the substituted provisions.

4. In our view, the assessee should not be remediless specially when the writ petition was dismissed with certain observation which may appear to have a bearing on the factual matter.

5. However, on a closer reading of the impugned order dated 8.6.2023 passed in the writ petition, we find the learned writ court had extracted a portion of the impugned order and made certain, prima facie, observations, but no conclusive finding on merits has been rendered.

6. We make this clear because if the appellant is to be relegated to avail the statutory appellate remedy, they should not be precluded from raising all issues before the appellate authority.

7. Accordingly, the appeal stands disposed of by giving liberty to the appellant/assessee to file appeals before the statutory appellate authority both against the re-assessment as well as against the order imposing penalty and if such appeal is filed within a period of 30 days from the date of receipt of server copy of this order, the appellate authority shall entertain the appeal without reference to limitation and proceed to take a decision on merits and in accordance with law uninfluenced by any of the observations made by the learned Single Bench in the impugned order.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)