N.22Sl

151/CL
11.02.26
Sl-07
Ct.551
(S.R.)

WPA 18477 of 2024

Astbhuja Deal Trade Pvt. Ltd.
v.
Union of India & Ors.

Mr. Pranit Bag
Mr. Anuj Kumar Mishra
Mr. A. Das
Mr. B. Patra ... for the petitioners.

Mr. Aryak Dutt
Ms. Sukanya Dutta
Ms. Riya Kundu ... for the respondents.

1. This writ petition has been filed assailing an assessment order dated May 16, 2023 passed under Section 147 read with Sections 144 and 144B of the Income Tax Act, 1961 (hereafter the 'said Act of 1961') for the assessment year 2014-15, as well as an order dated March 22, 2024 imposing penalty passed under Section 271(1)(c) of the said Act of 1961.
2. It is noticed that the petitioner has an alternative efficacious remedy of appeal before the Commissioner of Income Tax (Appeal) in terms of Section 246A of the said Act of 1961. Such remedy ought to have been availed within the statutory period prescribed in the said Act of 1961 itself. Since the petitioner has approached this Court much beyond the period during which the petitioner was supposed to file appeal against the assessment order (i.e. after more than one year) as also beyond

the period within which an appeal was available against the order imposing penalty, this Court is not inclined to exercise discretion in favour of entertaining the writ petition in view of the law laid down by the Hon'ble Supreme Court in the case of ***A.V. Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhwani & Anr. AIR 1961 SC 1506***.

3. This writ petition is, therefore, dismissed.
4. This order shall, however, not preclude the petitioner from approaching the appellate authority in terms of the relevant provisions of the said Act of 1961. If the petitioner files an appeal before the appellate authority within a period of three weeks from date, the entire period during which this writ petition remained pending before this Court shall be excluded while computing the period of limitation.
5. Needless to mention that the petitioner shall be entitled to explain the delay occasioned by the petitioner in preferring the appeal before the appellate authority, by way of appropriate application which shall be considered by the appellate authority appropriately, in accordance with law.
6. It is made clear that as this Court has not exercised discretion to entertain the writ petition as indicated hereinabove, the merits of the case have not been

gone into and all points are left open to be decided by the appellate authority, in accordance with law.

7. WPA 18477 of 2024 stands dismissed with the above observations.
8. There shall, however, be no order as to costs.
9. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)