Chattar Singh Tomar v. Commissioner of Income Tax

Income Tax Appeal Nos.31, 32 and 33 of 2016

Supplied court judgment; no neutral citation stated | 2016-08-10

Default-related Tribunal orders set aside; ITAT directed to hear miscellaneous applications 185, 186 and 187/Chd/2008 on merits. No decision on the underlying tax controversy.

Rule 24, ITAT Rules

Division Bench | Mansoor Ahmad Mir | Sandeep Sharma

01 FACTS OF THE CASE

The appeals challenged a common ITAT order dated 4 January 2016 dismissing miscellaneous applications. Counsel explained that applications to recall an order dated 7 July 2008 had been dismissed in default on 24 May 2013, and that the subsequent recall request was rejected. He invoked Rule 24 and sought a merits hearing of MAs 185, 186 and 187/Chd/2008.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

Revenue's counsel was not in a position to resist the prayer. After considering the record, the Court found that the applications had been dismissed in default without hearing the appellant. It held that natural justice required their determination on merits.

Source: PDF p.2

03 JUDICIAL DECISION

The Court allowed the appeals, set aside the orders dated 24 May 2013 and 4 January 2016, and directed ITAT to hear MAs 185, 186 and 187/Chd/2008 on merits. Parties through counsel were directed to appear on 1 September 2016.

Source: PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

The assessee obtained a procedural merits hearing of the miscellaneous applications. The order does not determine their eventual result or decide the underlying assessment dispute.

Source: PDF pp.2–3

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05 EXPERT COMMENTS

The two set-aside orders must be distinguished from the original order — The source describes a sequence involving the original order dated 7 July 2008, dismissal in default on 24 May 2013 of the applications seeking recall, and rejection of the subsequent miscellaneous applications on 4 January 2016. The operative paragraph expressly sets aside the 2013 and 2016 orders. It does not expressly set aside the 2008 order. A case note that treats the original appeal as already restored or allowed would exceed the recorded relief. (Source: PDF pp.1–3).

Rule 24 was invoked, while the expressed reasoning was natural justice — Counsel submitted that the impugned orders offended Rule 24 of the ITAT Rules. The Court's own recorded finding is that the three applications had been dismissed in default without hearing the appellant, making a merits hearing necessary in the interests of natural justice. The judgment does not reproduce or comprehensively interpret the Rule, resolve a contested sufficient-cause inquiry, or establish automatic restoration in every non-appearance case. Revenue counsel's inability to resist is part of this record, not a substitute for the Court's stated finding. (Source: PDF p.2).

A merits hearing of the applications is not a merits decision in the tax appeals — The specific direction concerns MAs 185, 186 and 187/Chd/2008. It requires ITAT to decide those applications on merits; it does not prescribe that they must succeed or determine the substantive appeal thereafter. No assessment year, disputed addition, deduction, tax amount or final liability is supplied. The practical result should therefore be described as procedural relief to the assessee, with the underlying tax merits unresolved. (Source: PDF pp.2–3).

One common order preserves all three proceedings and the limited timetable — ITAs 31, 32 and 33 of 2016 were disposed of together by this complete three-page order. One canonical note identifies all three High Court appeals and all three miscellaneous applications. The direction to appear on 1 September 2016 is the historical remand timetable; the supplied source does not prove what happened on that date or later. For the same dispute, the relevant record would include the three earlier orders, the applications and the eventual post-remand decision. (Source: PDF pp.1–3).

Source: PDF pp.1–3

SOURCE & VERIFICATION

Original court judgment / order

Full original read; every original page visually inspected.

STATUTORY SCOPE

Provisions and historical figures are recorded only as addressed in this judgment. No current statutory position or subsequent-treatment clearance is represented.

LATER TREATMENT

Appeal, review, recall and stay status has not been independently confirmed.

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