Divya Kamal Arora v. Income Tax Officer and another

CWP No.2716 of 2017

Supplied court judgment; no neutral citation stated | 2018-11-05

Pending statutory appeal to be decided within two months of receipt; reopening issue to be addressed if permissible in law. Notice and assessment not quashed.

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Division Bench | Surya Kant | Ajay Mohan Goel

01 FACTS OF THE CASE

The writ challenged a Section 148 notice and rejection of objections to it. Counsel stated that an assessment order had been passed on the date the writ was filed, that a statutory appeal had been taken, and that the appeal remained pending.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

In view of the pending appellate remedy, the Court directed the Commissioner (Appeals) to decide the appeal promptly and within two months of receipt of the order. The reopening issue was also to be decided if permissible in law.

Source: PDF p.2

03 JUDICIAL DECISION

The writ was disposed of with the appellate-decision directions. Pending miscellaneous applications were also disposed of.

Source: PDF p.2

04 OUTCOME / IN WHOSE FAVOUR

The petitioner obtained a time-bound appellate decision direction, not an order invalidating the notice, rejection of objections or assessment. The eventual appeal result is not supplied.

Source: PDF p.2

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05 EXPERT COMMENTS

The intervening assessment changed the procedural setting — The writ initially attacked the reopening notice and rejection of objections. Counsel then identified an assessment order passed on the writ-filing date and an already pending statutory appeal. That sequence explains why the Court directed an appellate decision rather than itself determining the notice challenge. No exact assessment date, assessment year or amount is given, and those details should not be inferred from the year in the writ number. (Source: PDF pp.1–2).

The two-month period runs from receipt of the order — The Court required disposal as early as possible and no later than two months from receipt of its order. The trigger is receipt, not simply 5 November 2018 or the date of the assessment. The source does not prove when receipt occurred, whether the appeal was decided within time or what relief the Commissioner (Appeals) ultimately granted. Those are separate compliance and outcome inquiries. (Source: PDF p.2).

The reopening direction retains its express legal qualification — The appellate authority was also to decide the reopening issue if permissible in law. This is not an unconditional declaration resolving the scope of appellate jurisdiction or a finding that the reopening was invalid. The source contains no analysis of reasons to believe, disclosure, service, sanction or the applicable statutory time limit. It should not be cited as deciding any of those substantive reopening requirements. (Source: PDF pp.1–2).

A decision timetable is not substantive or recovery relief — The operative order does not quash the Section 148 notice, the objection-rejection order or the assessment. Nor does it expressly stay recovery or direct that the appeal must be allowed. Its practical relief is the specified appellate timetable and qualified consideration of reopening. A reader assessing the same dispute would need the notice, reasons, objections, assessment and eventual appellate order to establish the underlying tax merits and later result. (Source: PDF p.2).

Source: PDF pp.1–2

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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