

Karnail Singh

Civil Writ Jurisdiction Case No.14259 of 2016

FORUM

Patna High Court

ORDER DATE

11 Dec 2018

NOTE TYPE

Source extract

01 CONCLUDING COURT PASSAGE - SOURCE EXTRACT

Ltd.) with particular reference to the opinion recorded at paragraph 5 & 10 and in our opinion the conclusion drawn by the Delhi High Court at Paragraph Nos. 5 & 10 of the judgment squarely applies to the present case and we are persuaded to reproduce the same hereunder for the sake of convenience: "5. After considering the reply, the Additional Commissioner of Income-tax, on February 26, 2013, passed the two penalty orders in which the plea of limitation was negated. It was noted that initiation of penalty proceedings was not linked to any pending assessment proceedings. The assessee then went in appeal before the Commissioner of Income-tax (Appeals). Two separate orders dated September 10, 2013 were passed and the penalty imposed was cancelled on the merits. However, on the aspect of penalty orders being barred by limitation, the Commissioner of Income-tax (Appeals) negated the plea of the assessee. 10. In the present case, the limitation in terms of Section 275(1)(c) of the Act began to run on July 23, 2012 and the last date for passing the penalty orders was January 31, 2013. Therefore, the penalty orders issued on February 26, 2013 were clearly barred by limitation." On the undisputed facts discussed above and in view of the legal position noted, we are persuaded with the argument of Mr. Rastogi to hold that the entire proceedings initiated for imposition of penalty under Section 271E of 'the Act' for alleged violation of Section 269(T) of 'the Act' is barred by limitation as prescribed under Section 275(1)(c) of 'the Act' and consequently the entire proceedings culminating in the order dated 21.09.2016 enclosed at Annexure-1 series to the Interlocutory Application are quashed and set aside. The writ petition is allowed. Arvind/Rajeev (Rajeev Ranjan Prasad, J)

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