

Court No. - 2

Case :- WRIT TAX No. - 241 of 2024

Petitioner :- Time Today Media Network Private Limited Thru. Director Adarsh Singh Kushwah

Respondent :- Union Of India Thru. Secy. Ministry Of Finance Deptt. Of Income Tax New Delhi And 2 Others

Counsel for Petitioner :- Prashant Pandey

Counsel for Respondent :- A.S.G.I., Dr. Ravi Kumar Mishra, Kushagra Dikshit

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

Heard.

The facts of the case in brief are that for the assessment year 2020-21, the petitioner claims to have submitted his return by 31.03.2021. Six months thereafter a survey was conducted under Section 133A of the Income Tax Act and two and a half years after the said survey, a notice under Section 148A(b) of the Income Tax Act, 1961 dated 21.02.2024 was served upon the petitioner on 22.02.2024, giving seven days' time to it to respond. On 29.02.2024 i.e. on the seventh day, the petitioner sent a response seeking fifteen days' further time, which was to expire on 15.03.2024. The petitioner claims that he did not receive any response from the Assessing Officer, though the counsel for the Revenue disputes this fact. Thereafter the petitioner submitted a response to the notice dated 21.02.2024 on 17.03.2024. On 19.03.2024, an order was passed under Section 148A(d) of the Income Tax Act, 1961 and by the same order, consequentially, notice under Section 148 of the Income Tax Act, 1961 was issued.

The submission of counsel for the petitioner is that the notice dated 21.02.2024 under Section 148A(b) of the Income Tax Act, 1961, the order dated 19.03.2024 under Section 148A(d) of the Income Tax Act, 1961 and the notice under Section 148 of the Income Tax Act, 1961 of the same date are without jurisdiction, as the same have been issued by the Jurisdictional Assessing Officer, which is impermissible in view of Section 151A of the Income Tax Act, 1961 read with the Notification dated 29.03.2022. The same could only have been done as per Faceless mechanism. It is also his submission that the application of the circular of the Central Board of Direct Taxes dated 31.03.2021 and 06.09.2021 to cases such as the one at hand, which is a central charge case, have been considered by several Division Benches of the Bombay High Court, one of

which is in the case of **Abhin Anilkumar Shah Vs. Income-tax Officer, International Tax Ward Circle 4(2)(1), Mumbai & Ors.; Writ Petition (L) No.16750 of 2024 decided on 28.08.2024**, wherein it has been held that the said circulars of the Board are not applicable to such cases and it is the Notification dated 29.03.2022, which is applicable. This has been held following decisions of the High Court of Telangana at Hyderabad apart from the earlier decisions of the Bombay High Court itself, which are referred therein. Therefore, the impugned notices/orders are liable to be quashed and in the interregnum, they are liable to be stayed as any day the final assessment order could be passed.

Per contra, Sri Neerav Chitranshi, Advocate alongwith Sri Kushgra Dikshit, learned counsel for the Revenue relies upon a Division Bench judgment of Gujarat High Court in the case of **Talati and Talati LLP Vs. Assistant Commissioner of Income Tax; (2024) 167 taxmann.com 371 (Gujarat)** to contend that the case at hand is covered by the said judgment and which has held that the circulars of the Board, which are referable to Section 144B of the Income Tax Act, 1961 aforesaid do apply. He also relies upon Office Memorandum dated 12.01.2024, specifically para 3 thereof, to contend that the Jurisdictional Assessing Officer could have taken action in the matter.

Prima facie, there are conflicting judgments on the issue and as informed by Sri Neerav Chitranshi, learned counsel for the Revenue, against the judgments of Bombay High Court and the Gujarat High Court as also of the High Court of Telangana at Hyderabad, Special Leave Petitions have been filed, some by the Revenue and others by the aggrieved assessee.

The matter requires consideration as to whether the Jurisdictional Assessing Officer could have issued the notices under Section 148A(b) of the Income Tax Act, 1961, could have passed the order under Section 148A(d) of the Income Tax, 1961 and could have consequentially issued the notice under Section 148 of the Income Tax Act, 1961 in view of the Notification dated 29.03.2022 issued by the Government of India, which is referable to Section 151A of the Income Tax Act, 1961 in respect of Central Charge Cases, therefore, as an interim measure, it is provided that the final order shall not be passed by the Assessing Officer until further orders.

Counsel for the Revenue seeks time to file a detailed counter affidavit in the matter inter alia disclosing the details of the Special Leave Petitions filed against the aforesaid results, if any, thereof.

Sri Neerav Chitranshi, learned counsel for the Revenue shall communicate this order to the concerned Assessing Officer forthwith.

List this case after six weeks.

Office is directed to provide copy of this order to the learned counsel for the parties on the payment of usual charges today itself, if possible.

(Om Prakash Shukla,J.) (Rajan Roy,J.)

Order Date :- 27.3.2025

Saurabh