
(1997) 04 P&H CK 0163
In the Punjab And Haryana At Chandigarh

HARBIIAJAN SINGH

APPELLANT

Vs

T. C. BANSAL, ITO AND ANOTHER.

RESPONDENT

Date of Decision : 11-04-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Income Tax Act, 1961 — Section 140A, 143, 147, 148, 154

Citation : (1999) 235 ITR 431

Hon'ble Judges : N. C. Khichi, J;G. S. Singhvi, J

Bench : Full Bench

Judgement

G. S. SINGHVI J.-This is a petition to quash the order, annexure-P-5, issued by the Income Tax Officer, Ward-1(7), Ludhiana, u/s 143 read with section 147 of the Income Tax Act, 1961 (hereinafter referred to as "the Act").

The averments made in the writ petition show that the petitioner had filed returns for the assessment year 1992-93 declaring an income of Rs. 27,930 and paid Income Tax amounting to Rs. 391 on the basis of self assessment made u/s 140A of the Act. The Assessing Officer completed the assessment u/s 143(1)(a) of the Act by adding a sum of Rs. 75,000 which the petitioner received from Smt. Harjeet Kaur as compensation due to repudiation of the agreement to sell her house. Against the order of the assessing authority the petitioner filed C. W. P. No. 8809 of 1993 which was disposed of by the High Court on March 15, 1994, with the following directions :

"After hearing learned counsel for the parties, we are of the view that this petition can be disposed of with the direction to the petitioner to file an application for rectification under the above mentioned provision. Petitioner would also be entitled to file an application for stay of the payment of amount in question as and when he received the demand notice. The Income Tax Officer is directed to decide the application de novo without being least influenced by the order passed by his predecessor in interest. The order must be speaking and well reasoned. This petition is disposed of with these observations."

Thereafter the petitioner filed an application u/s 154 of the Act. That application was accepted by the Income Tax Officer. However, on that very day a notice u/s 148 was issued to the petitioner on the premise that the income of the petitioner had escaped assessment within the meaning of section 147. After hearing the petitioner, respondent No. 1 passed the impugned order and assessed the income of the petitioner at Rs. 1,02,930.

Shri Mahajan, learned counsel for the petitioner, argued that even though the remedy of appeal is available to the petitioner u/s 246(1), the court may entertain the writ petition because the decision of the appeal is likely to be delayed. We are not at all impressed with the submission of Shri Mahajan and, in our opinion, the writ petition does not deserve to be entertained because of the availability of an effective alternative remedy. The Income Tax Act, 1961 constitutes a complete code to deal with all issues relating to tax on income and when a specific remedy has been provided under the statute to a person aggrieved by an order passed u/s 143 read with section 147 of the Act, we (h) not find any reason to deviate from the well established rule that the High Court will ordinarily not entertain the writ petition under article 226 where an effective alternative remedy is available to the petitioner. This principle of law has been very aptly laid down in *Titaghur Paper Mills Co. Ltd. v. State of Orissa* [1983] 142 ITR 663 and reiterated in a recent decision in *State of Goa and others Vs. Leukoplast (India) Ltd. etc.,* .

We also find that the appellate authority is vested with the power to grant interim stay in an appropriate case. The petitioner can also apply for stay of the order passed by respondent No. 1.

For the reasons mentioned above, the writ petition is dismissed.

We, however, make it clear that the petitioner shall be free to file application for along with appeal which he may file against the impugned order. He shall also be free to intake an application for expeditious disposal of the appeal.