(1999) 04 MAD CK 0115

In the Madras High Court

Case No : Writ Petition No. 2719 of 1999 W.M.P. No. 3872 of 1999

NEPC India Ltd. APPELLANT

Vs

Assistant Commissioner of Income Tax RESPONDENT

Date of Decision : 12-04-1999

Acts Referred:
Income Tax Act, 1961 — Section 281B

Citation : (1999) 104 TAXMAN 651

Hon'ble Judges : N.V. Balasubramanian, J

Bench : Single Bench

Advocate : R. Janakiraman, for the Appellant; S.V. Subramanian and S. Sundaresan, for the Respondent

Final Decision : Dismissed

Judgement

N.V. Balasubramanian, J.—This writ petition is filed challenging the order passed by the Assistant Commissioner of income tax, Central Circle 1(i), Chennai-34, dated 19-3-1998. According to the petitioner, the writ petition is filed challenging the order passed by the respondent u/s 281B of the income tax Act, 1961 (''the Act'') in P.A. No. 47-097-CX-8869 of 1992-93 to 1996-97 dated 19-3-1998. The writ petitioner is really aggrieved by the statement made in the impugned order to the effect that the order would operate until further orders of the Assistant Commissioner, Central Circle 1(i), Chennai-34. Mr. S.V. Subramanian, the learned senior counsel for the respondent, submitted that the impugned order was made in continuation of the earlier order passed u/s 281B of the Act and the earlier order was challenged in W.P. No. 17380 of 1996 and it is not a fresh order as assumed by the writ petitioner in the writ petition. The learned senior counsel further submitted that the statement made by the writ petitioner that the assessment for 1993-94 was not complete on the date of filing of the writ petition is not correct as the order of assessment for the assessment year 1993-94 was already made on 5-2-1999 and the assessment order was also served on the petitioner on 16-2-1999 prior to filing of the writ petition on

18-2-1999. I hold that when that is the position, it is highly regretted that the petitioner has not come up with the true facts at the time of filing of writ petition.

2. The submission of the learned counsel for the petitioner is that the affidavit was prepared in October 1998 and the writ petition was filed on 18-2-1999 and, hence, the discrepancy was not noticed. I am unable to agree. Whatever the explanation now offered by the learned counsel for the petitioner, I hold that the petitioner should have taken sufficient care when it makes a statement in the affidavit to be filed in the Court and the statement regarding the pendency of the earlier proceedings is a relevant factor relating to applicability u/s 281B. That apart, even according to the writ petitioner, the Commissioner has not extended the period of operation of the impugned order beyond the period of six months as provided u/s 281B and the impugned order lapsed on 19-9-1998 u/s 281B. An order passed u/s 281B is valid only for a period of six months unless it is extended. Even according to the writ petitioner, the impugned order lapsed on 19-9-1998 and if that is the position, I am of the view that nothing survives in the writ petition and, accordingly, this writ petition is liable to be dismissed. The learned counsel for the petitioner submitted that the order of attachment of the movable properties of the petitioner is not valid in law. However, in my view, when even according to the petitioner, the impugned order lapsed on 19-9-1998 u/s 281B, it is not necessary to consider the said objection. Accordingly, this writ petition is dismissed with cost of Rs. 500. Consequently, W.M.P. No. 3872 of 1999 is also dismissed.