

Hardeva Vs. Deputy Commissioner of Income-tax (Assessment)

Hardeva Vs. Deputy Commissioner of Income-tax (Assessment)

SooperKanoon Citation : sooperkanoon.com/487103

Court : Allahabad

Decided On : Feb-12-1998

Reported in : [1998]230ITR875(All)

Judge : R.K. Gulati and ;M.C. Agarwal, JJ.

Acts : [Constitution of India](#) - Article 226; [Income Tax Act, 1961](#) - Sections 148

Appeal No. : Civil Miscellaneous Writ Petition No. 83 of 1998

Appellant : Hardeva

Respondent : Deputy Commissioner of Income-tax (Assessment)

Judgement :

1. This writ petition is directed against the notices under Section 148 of the Income-tax Act, 1961, in respect of the assessment years 1986-87 to 1990-91, copies whereof are contained in annexures '7-A' to '7-E' filed with the writ petition. The notices were issued as far back as on March 11, 1996. The issuance of these notices was impugned before this court by the petitioner in Writ Petition No. 455 of 1996, which was dismissed by a Division Bench of this court by an order dated July 1, 1996. There two contentions were raised by the petitioner, namely, that the notices issued under Section 148 were invalid and, secondly, the petitioner had not been supplied the reasons in pursuance of which the notices under Section 148 were issued. Both these contentions were repelled by the court and the writ petition was dismissed. It appears, that the petitioners thereafter participated in the

assessment proceedings. In paragraph 26 of the present writ petition it is, however, averred that the hearing in pursuance of the notices under Section 148 has already been concluded and the assessment orders, if any, are awaited. On these facts the petitioner has chosen to institute this writ petition. The grounds for assailing the notices under Section 148 are the same which were urged in the earlier writ petition though put in different form.

2. We have considered the submissions urged before us on behalf of the petitioner. In our opinion, the petitioner is not entitled in law to institute a second writ petition on the same grounds on which the impugned notices were earlier assailed before this court. If the petitioner felt aggrieved by the decision rendered in the earlier writ petition the remedy of the petitioner lay to approach the higher court ; this court cannot sit in judgment over the earlier decision that was given by a Division Bench of this court. The contention that the amount of interest received by the petitioner on the enhanced compensation cannot be split and assessed in the assessment years in dispute can as well be canvassed before the higher authority constituted under the Act, if any assessment order is passed and the petitioner feels dissatisfied with it. The writ petition is, accordingly, dismissed without entering into the merits of the case.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com