

Pradeep Mishra Vs. Commissioner of Income Tax

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Court : Delhi

Decided On : Oct-26-2004

Reported in : (2004)192CTR(Del)412

Judge : B.C. Patel, C.J. and; Badar Durrez Ahmed, J.

Acts : [Income Tax Act, 1961](#) - Sections 132B and 142(2A)

Appeal No. : Civil Misc. No. 10125 of 2004 in Writ Petn. Nos. 4581 to 4583 of 2004

Appellant : Pradeep Mishra

Respondent : Commissioner of Income Tax

Advocate for Def. : Prem Lata Bansal and ; Ajay Jha, Advs.

Advocate for Pet/Ap. : O.S. Bajpai and; L.S. Dass, Advs

Judgement :

1. These petitions were disposed of by an order dt. 27th July, 2004, with the direction to the respondents 1 and 2 to carry out the directions of the Income-tax Settlement Commission within a period of four weeks from that date. However, in the meanwhile, CM No. 9697 of 2004 was filed by the chartered accountant who was appointed as a special auditor under the provisions contained in Section 142(2A) of the IT Act, 1961 (hereinafter referred to as 'the Act').

2. The order of the Settlement Commission was to the effect that the assets will be released after the taxes and interests are fully paid. The Court was informed that the taxes and interests are fully paid. On 20th Aug., 2004; a statement was made by the applicant in CM No. 9697 of 2004 that the fees are to be recovered as tax dues from the respondents as provided in Section 142(2D) of the Act. It is in view of this that we stayed our order dt. 27th July, 2004, till further orders. It may be noted that so far as the question of payment of fees to the chartered accountant/auditor is concerned, it has been decided today in WP (C) 1775 of 2000 and 6312 of 2000 filed by the assessed and chartered accountant, respectively. If the assessed has paid all the taxes and interests as per the order made by the Settlement Commission, then the order passed by the Settlement Commission is required to be complied with. According to the learned counsel, all the taxes and interests are fully paid. If that is so, then only the auditor's fee, as ordered by this Court, is required to be paid by the assessed and, till the auditor's fees are paid, it would be open for the Revenue to retain the jewellery. The learned counsel for the petitioner has stated that if the articles other than the jewellery are released/returned to the petitioner, then within a period of four weeks he will be able to make the payment for the auditor fees as ordered by this Court and upon the discharge letter given by the auditor, the jewellery be released by the CIT. We direct accordingly. The articles/assets other than jewellery shall be released within a period of one week. We also make it clear that in case the auditor's fees as ordered by this Court are paid by the petitioner earlier, then on production of discharge letter issued by the chartered accountant/ auditor concerned, it would be open for the petitioner to move the CIT for release of the jewellery also as ordered by the the

Settlement Commission.

With these directions, the CM stands disposed of.

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