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Smt. Pushpa Devi Vs. Ito

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Court : Rajasthan

Decided On : Mar-19-2004

Reported in : [2004]141TAXMAN437(Raj)

Appeal No. : Civil Writ Petition No. 1645 of 2004 S.B. Civil Misc. Stay Application No. 1435 of 2004 19 March 200

Appellant : Smt. Pushpa Devi

Respondent : ito

Advocate for Pet/Ap. : Sanjay Jhanwar, *for the Assessee*

Judgement :
ORDER

Having heard learned counsel for the petitioner it is difficult to appreciate this litigation in the court by the assessee of the Income-tax at this stage. Only show-cause notice was issued to the petitioner and there is ample opportunity to her to put all the points for consideration before the assessing authority. Even there may not be any difficulty for the petitioner to submit before the assessing authority that he has no jurisdiction to issue this notice under section 148 of the Income Tax Act, 1961. Against the final order passed in the proceedings it is not the case that the petitioner may not have any remedy. The order of reassessment made by the assessing authority is subject to the first appeal, second appeal and even now the third appeal to this Court.

2. It is not necessary as what it is prayed for by the learned counsel for the petitioner that a direction be issued to the assessing authority to decide all the points raised in the reply to the notice. It is his duty to consider and give his decision on the points raised in the reply to the show-cause notice by the petitioner.

3. Otherwise also I am satisfied that this matter is squarely covered by the Division Bench decision dated 9-1-2004 of this court in D.B. Special Appeal (Writ) No. 138/2003 decided along with nine other cognate matters.

4. In the result this writ petition fails and the same is dismissed. Consequent upon the dismissal of the writ petition, the stay application, filed therewith, does not survive and the same is also dismissed.

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