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%18.08.2009

Present: Mr. Kaanan Kapur, Advocate for the appellant.  
Ms. Rashmi Chopra, Advocate for the respondent.

**+W.P.(C) No. 467/2009 & W.P.(C) No. 497/2009 (Common Order)**

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At the instance of the Assessing Officer, Special Audit was got conducted by the respondent No.3. This Special Audit was assigned to the petitioner herein in December, 2006. Petitioner states in these petitions that it had completed the Special Audit and raised its Fee Bill/Remuneration claim on 3.7.2007 with the Respondent No.2/Commissioner of Income Tax. This is for the reason that as per Section 142(2D) of the Income Tax, the expenses of audit including the remuneration of the accountant is to be determined by the Chief Commissioner or Commissioner and after determination of the fee and expenses, the same is payable by the assessee (respondent no.3 in this case). In case there is a default on such payment then the amount can be recovered from the assessee in the manner provided in Chapter XVII-B, for recovery of arrears of taxation.

Grievance of the petitioner, however, is that even when the bill that was submitted way back in July, 2007, the same has not been processed till date and there is no determination of fee and expenses by the respondent



No.2. In the short reply filed by respondent No.2, it is inter alia, stated that copy of the Audit Report has not been furnished to the respondent No.2 so far and in the absence thereof, the respondent No.2 has not been able to determine the fee. It is not in dispute that as per the procedure, copy of the Audit Report is to be supplied by the Auditor to the assessee concerned. Therefore, it was the duty of the respondent No.2 to obtain the report from the assessee and process the same. Even if the assessee was not cooperating in this behalf, as alleged by the respondent No.2, the respondent No.2 was not remediless and could have atleast asked the petitioner to supply the copy. We are unable to appreciate the aforesaid stand of the respondent No.2 sleeping over the matter for more than two years. Be as it may, in order to resolve the issue, learned counsel for the petitioner has supplied the copy of the complete audit report running into two volumes in each case, to learned counsel for the respondent No.2 in the court today.

Under these circumstances, we hope and expect that the respondent No.2 shall finalize the fee bill/remuneration claim submitted by the petitioner within two months from today and direct the assessee to pay the same to the petitioner. It is also made clear that in case the assessee fails to make the payment, it is the obligation of the respondent No.2 to take steps



for recovery of the amount in accordance with the provisions contained in  
Chapter XVII-B of the Income Tax Act.

The writ petitions stand disposed of in the aforesaid terms.

  
A.K. SIKRI, J

  
VALMIKI J. MEHTA, J

August 18, 2009  
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