



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 05.05.2010

+ **W.P.(C) 8404/2009**

RAJ KUMAR MANGLA ... Petitioner

versus

COMMISSIONER OF INCOME TAX ... Respondent

WITH

+ **W.P.(C) 8505/2009**

RAJ KUMAR MANGLA ... Petitioner

versus

COMMISSIONER OF INCOME TAX ... Respondent

Advocates who appeared in this case:

For the Petitioner : Petitioner-in-person

For the Respondent : Ms Rashmi Chopra

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE V.K. JAIN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. In these petitions, there are essentially two grievances raised by the petitioner who appeared before us in person. The first grievance is with regard to the order made under Section 127(2) of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act), whereby the petitioner's case was



(Investigation) Circle, Gurgaon to the Office of ITO, Ward No.10(1), Delhi which falls under the administrative control of the Commissioner of Income-tax-VII, Delhi. The said transfer order was dated 14.10.1998 and was to take effect from 30.10.1998. The petitioner is aggrieved by this transfer order because, according to him, his application for rectification under Section 154 of the said Act, which was filed before the Commissioner of Income-tax (Appeals), Faridabad, could not have been transferred under Section 127(2) of the said Act inasmuch as only the assessment proceedings could, in his view, be transferred under that provision.

2. The second grievance of the petitioner is that the application moved by him under Section 154 of the said Act in respect of appeal Nos. 144, 145 and 146/95-96 was disposed of by the Commissioner of Income-tax (Appeals), New Delhi without giving him an opportunity of hearing. The said order disposing of the application under Section 154 was dated 26.04.2005. Incidentally, this was the third application under Section 154 of the said Act filed by the assessee / petitioner seeking rectification of the very same order. The first two applications under Section 154 were dismissed by the Commissioner of Income-tax (Appeals), Faridabad. Thereafter, because the case stood transferred under Section 127(2) of the said Act, the third application of the petitioner under Section 154 was rejected by the Commissioner of Income-tax (Appeals), New Delhi by virtue of the said order dated 26.04.2005. Thereafter, the petitioner moved a fourth application under Section 154 requesting for rectification of the



3. Insofar as the first grievance of the petitioner is concerned, with regard to transfer of the case from Gurgaon to Delhi, the petitioner has agreed before us that he shall not press this point and as such no grievance subsists insofar as the transfer of the entire case is concerned.

4. With regard to the second issue, we find that the petitioner has been filing repeated applications under Section 154 and that this practice is not to be encouraged. The petitioner has agreed that if he is given an opportunity of hearing in respect of his application under Section 154, which was dismissed on 26.04.2005, no further applications under Section 154 would be filed in respect of the very same order. He also undertook that the fourth application, which has purportedly been filed under Section 154 of the said Act, could also be deemed to have been withdrawn.

5. Considering the chequered history of this case and the somewhat convoluted facts, we are of the view that it would serve the ends of justice if the entire proceedings are cut short and the petitioner is given a final opportunity to present his case with regard to his application under Section 154, which had been dismissed by the impugned order dated 26.04.2005. We note from the impugned order itself that the petitioner was not given a personal hearing before disposing of the said application. Consequently, we set aside the impugned order dated 26.04.2005 and direct the Commissioner of Income-tax (Appeals), New Delhi to grant the opportunity of hearing to the petitioner and thereafter pass an order on the said application in



6. We make it clear that the fourth application filed by the petitioner would be deemed to have been withdrawn. We also make it clear that this order has been passed under the clear understanding that the petitioner shall not agitate the question of transfer of the case from Gurgaon to New Delhi any further nor would he file any further application / applications under Section 154 of the said Act in respect of the very same appellate orders, which were passed in appeal Nos.144, 145 and 146/95-96.

7. The petitioner also submits that a date may be fixed for his appearance before the Commissioner of Income-tax (Appeals). We direct that the petitioner shall appear before the Commissioner of Income-tax (Appeals)-XXV, New Delhi on 24.05.2010 in the first instance. The said Commissioner of Income-tax (Appeals) would give the petitioner an opportunity of hearing and then pass the order in accordance with law. In case the petitioner has any grievance against the said order, it would be open for him to take recourse to the remedies as available to him under law.

The writ petitions stand disposed of with these directions.

Dasti.

BADAR DURREZ AHMED, J

V.K. JAIN, J

MAY 05, 2010

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