

ITEM NO.30

COURT NO.14

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 10305/2024

(Arising out of impugned final judgment and order dated 28-02-2024 in WP(C) No. 2943/2024 passed by the High Court Of Delhi At New Delhi)

SUNIL BAKHT

Petitioner(s)

VERSUS

ASST. DIRECTOR OF INCOME TAX, CPC & ANR.

Respondent(s)

IA No. 106563/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 24-09-2024 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Robin Ratnakar David, Adv.
Mr. Dhiraj Abraham Philip, AOR
Mr. Febin Mathew Varghese, Adv.
Ms. Achalika Ahuja, Adv.
Mr. Nihar Baijal, Adv.

For Respondent(s) Mr. S. Dwarakanath, A.S.G.
Mr. Rupesh Kumar, Sr. Adv.
Mr. Raj Bahadur Yadav, AOR
Mr. H R Rao, Adv.
Mr. Navanjay Mahapatra, Adv.
Mr. Satya Prakash, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. The Special Leave Petition arises out of the order dated 28.02.2024, passed by the High Court dismissing the writ petition filed by the petitioner questioning the imposition of surcharge on Rs. 1.57 Crores and demanding Rs. 2.01 Crores for the Assessment

Year 2022-2023. The reason for the dismissal of the Writ Petition is that the petitioner can avail an alternative remedy.

2. It is important to note that, for the previous Assessment Year 2021-2022, a similar imposition of surcharge was carried in judicial review and the High Court by its order dated 21.03.2023 allowed the Writ Petition in view of the submission of the Revenue agreeing to remit the amount of Rs. 1.33 Crores.

3. The learned counsel appearing for the Revenue submits that even in the present proceedings (Assessment Year 2022-2023), there is rectification of the excess surcharge and the amount was remitted to the petitioner on 06.06.2024 . This statement concludes the lis in the present proceedings.

4. However, the story does not end here.

5. During the pendency of the present proceedings, there is yet another demand notice dated 28.05.2024 raised for the Assessment Year 2023-2024, as per which surcharge computed at 37% and a demand of Rs. 62,85,070/- has been raised. Learned counsel for the Revenue submits that this error is occurring as the Central Processing Centre (CPC) has not adopted the mechanism of deleting excess calculation as it is programmed to so calculate and raise a demand.

6. The technological impediment cannot be a reason for harassing an assessee year after year. Immediate steps must be taken by the Revenue to upgrade the software or take such other steps as may be necessary to ensure that such mistake does not occur in future.

7. Insofar as the order impugned is concerned, the dispute has

already been resolved and the amount is said to have been remitted on 06.06.2024. However, for the Assessment Year 2023-2024, the Revenue shall take immediate steps and communicate the order of withdrawal of the excess surcharge amount within six weeks from the date of the receipt of the order. The Central Board for Direct Taxes shall also take necessary steps for rectifying the software as the issue may not be resolved by the Jurisdictional Assessing Officer.

8. With these observations, the Special Leave Petition is disposed of.

9. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)