

2023 LiveLaw (SC) 16

IN THE SUPREME COURT OF INDIA

SANJIV KHANNA; J., M.M. SUNDRESH; J.

Special Leave to Appeal (C) No(s). 86/2023; 03-01-2023

RED CHILLI INTERNATIONAL SALES *versus* INCOME TAX OFFICER & ANR.

Income Tax Act, 1961; Sections 148 and 148A - Writ petition can be entertained to examine if conditions for issuance of notice under Section 148 have been satisfied.

(Arising out of impugned final judgment and order dated 02-06-2022 in CWP No. 10073/2022 passed by the High Court of Punjab & Haryana at Chandigarh)

For Petitioner(s) Mr. Rana Gurtej Singh, Adv. Ms. Ravinder Singh, Adv. Ms. Raveesha Gupta, Adv. Ms. Mantika Haryani, Adv. Mr. Sanjeev Kaushik, Adv. Mr. Shreyas Awasthi, Adv. Mr. Nikhil Goyal, Adv. Mr. Srisatya Mohanty, Adv. Ms. Muskan Surana, Adv. Ms. Astha Sharma, AOR

ORDER

Delay condoned.

We with the petitioner that the impugned judgment rejecting the writ petition on the ground of alternative remedy does not take into consideration several judgments of this Court, on the jurisdiction of High Court, as writ petitions have been entertained to be examined whether the jurisdiction preconditions for issue of notice under Section 148 of the Income Tax Act, 1961 is satisfied. The provisions of reopening under the Income Tax Act, 1961 have undergone an amendment by the Finance Act, 2021, and consequently the matter would require a deeper and in-depth consideration keeping in view the earlier case law. Accordingly, we set aside the observations made by the High Court in the impugned judgment observing that the writ petition would not be maintainable in view of the alternative remedy, clarify that this issue would be examined in depth by the High Court if and when it arise for consideration. We do deem it open to examine this issue in the present case after having examined the notice under Section 148A (b) including the annexure thereto, the reply filed by the petitioner and the order under Section 148A (d) of the Income Tax Act, 1961.

Recording the aforesaid, the special leave petition is disposed of. We clarify that the dismissal of the special leave petition would not be construed as a findings or observations on the merits on case.

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

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