IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 2262 OF 2018
[ARISING OUT OF SPECIAL LEAVE PETITION
(CIVIL) NO.9174 OF 2015

INCOME TAX OFFICER, ETAWAH ...APPELLANT(S)

VERSUS

DHARAM NARAIN ...RESPONDENT(S)

ORDER

1. Leave granted.

2. By the impugned order, the High Court has quashed the notice dated 16th October, 2006 issued under Section 143(2) of the Indian Tax Act, 1961 to the respondent – Assessee by allowing the writ petition filed by the said Assessee. Aggrieved, the Revenue is in appeal before this Court.

3. Admittedly, under the provisions of Section 143(2) of the Income Tax Act, 1961 (as then in force) the notice has to be

served on the respondent – Assessee latest by 30th October, 2006. In the present case, notice was issued on 16th October, 2006 which was dispatched on 18th October, 2006 by registered post. The materials on record indicate that on two occasions the notice sent by registered post could not be served on the respondent – Assessee as he was not available and that it was served on the authorized representative of the respondent – Assessee on 19th October, 2006. The question, therefore, that arises in the writ petition was whether in such circumstances the requirement under Section 143(2) of the Income Tax Act, 1961 was met by the Revenue. The High Court answered the question in the negative taking the view that what is required to be satisfied by the Revenue is service of notice and not mere issuance thereof.

4. It will not be necessary for us to decide the aforesaid question in the present case which is being kept open for decision in an appropriate case. We have taken the aforesaid view as the present case is capable of being resolved on its own peculiar facts.

5. The non-availability of the respondent – Assessee to receive the notice sent by registered post as many as on two occasions and service of notice on 19th October, 2006 on the authorized representative of the respondent Assessee whom the respondent Assessee now disowns, in our considered view, is sufficient to draw an inference of deemed service of notice on the respondent – Assessee and sufficient compliance of the requirement of Section 143(2) of the Income Tax Act, 1961.

6. On the aforesaid view that we have taken we are of the opinion that the High Court was not right in coming to the impugned conclusion in the facts of the instant matter. We, accordingly, allow this appeal and set aside the order of the High Court.

.....................,J.
(RANJAN GOGOI)

....................,J.
(R. BANUMATHI)

NEW DELHI
FEBRUARY 19, 2018

ITEM NO.46 COURT NO.3 SECTION IV-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 9174/2015
(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 05-12-2012 IN WP NO. 642/2007 PASSED BY THE HIGH COURT OF JUDICATURE AT ALLAHABAD)

INCOME TAX OFFICER, ETAWAH PETITIONER(S)

VERSUS

DHARAM NARAIN RESPONDENT(S)
(AND IA NO.18177/2018-EXEMPTION FROM FILING O.T. AND IA NO.24513/2018-I/A FOR FILING CORRECTED VERSION OF THE COUNTER AFF. AND IA NO.24758/2018-I/A FOR FILING CORRECTED VERSION OF THE COUNTER AFF. AND IA NO.24761/2018-EXEMPTION FROM FILING O.T.)

Date : 19-02-2018 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Mr. K. Radhakrishnan, Sr. Adv.
Ms. Rekha Pandey, Adv.
Mr. Sarad Kumar Singhania, Adv.
Ms. Gargi Khanna, Adv.
Mrs. Anil Katiyar, AOR

For Respondent(s) Mr. Imtiaz Ahmed, Adv.
Mrs. Naghma Imtiaz, Adv.
Mr. Ahmed Zargham, Adv.
Ms. Amra Moosavi, Adv.
for M/S. Equity Lex Associates, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order. Consequently, all pending applications are also disposed of.

[VINOD LAKHINA]	**[ASHA SONI]**
AR-cum-PS	**BRANCH OFFICER**

[SIGNED ORDER IS PLACED ON THE FILE]