IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 29309 OF 2012

HEMENDRA RANCHHODDAS MERCHANT ..PETITIONER(S)

VERSUS

DIRECTOR OF INCOME TAX (INVESTIGATION) MUMBAI & ORS. .. RESPONDENT(S)

O R D E R

S.L.P.(C) No. 29309 of 2012

1. The assessee under the provisions of Income Tax Act, 1961 (for short, "the Act") is before us, *inter alia*, questioning the correctness or otherwise of the judgment and order passed by the High Court of Judicature at Bombay in W.P. (C) No. 47 of 2011, dated 02.04.2012. By the impugned judgment and order, the High Court has sustained the proceedings initiated by the authorities under Section 132 (1) (b) of the Act.

2. In the writ petition filed by the petitioner, it has questioned the warrant of

authorization issued by the Director of Income Tax (Investigation) under Section 132(1)(b) of the Act, dated 20.12.2006 and the consequential Assessment Order for the assessment years 2001-2002 to 2004-2005, dated 24.11.2003.

3. The High Court while rejecting the stand of the assessee insofar as the legality or otherwise of the warrant of authorization issued under Section 132(1)(b) of the Act has permitted the appellant-assessee to question the orders of assessment made for the relevant assessment years.

4. At the time of hearing of the special leave petition, Shri Dushyant Dave, learned senior counsel appearing for the appellant-assessee would inform us that the orders of assessment for the aforesaid assessment years were called in question before the Commissioner of Income Tax(Appeal) in first appeals. The said appeals are already disposed of. Against the

said order(s), the assessee has already preferred second appeals before the Income Tax Appellate Tribunal (for short "Tribunal") which are pending as of now. Therefore, Shri Dave would submit that the assessee may be permitted to raise the contentions insofar as whether the Income Tax Authorities could proceed to issue a warrant of authorization under Section 132(1) of the Act against the firm admittedly dissolved "as on the date of the issuance of authorization".

5. Shri K. Radhakrishnan, learned senior counsel appearing for the respondent-Revenue, though had some initial reservation to the aforesaid submission made by the Shri Dave, but during the course of proceedings before us agreed that the issue may be allowed to be raised by the assessee before the Tribunal and the Tribunal may be directed to consider the same, independently, in accordance with law.

6. In view of the submissions made by both the learned senior counsel, we are of the considered opinion that if we grant the request of Shri Dave it would not cause any prejudice to the respondent-Revenue.

7. In that view of the matter without going into the other details of the case, we dispose of the special leave petition permitting the petitioner-assessee to raise the contentions insofar as whether the Income Tax Authorities can proceed to issue a warrant of authorization under Section 132(1) of the Act against the firm, admittedly, dissolved "as on the date of the issuance of authorization" before the Tribunal, if already not raised in the memorandum of appeal so filed. The Tribunal may consider the said question, independently, in accordance with law.

8. The assessee may approach the authorities

for returning/furnishing the copies of the seized documents appended to the warrant of authorization issued under Section 132 (1) (b) of the Act. If such a representation is made the authorities shall consider the same in accordance with law.

S.L.P. (C) Nos. 31148-31152 of 2013

In view of the order passed in S.L.P. (C) No. 29309 of 2012, these special leave petitions are also disposed of in the same terms, observations and directions.

Ordered accordingly.

....................CJI
(H.L. DATTU)

....................J.
(MADAN B. LOKUR)

....................J.
(A.K. SIKRI)

NEW DELHI;
NOVEMBER 05, 2014.

ITEM NO.4 COURT NO.1 SECTION IIIA

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). 29309/2012

(Arising out of impugned final judgment and order dated 02/04/2012 in WP No. 47/2011 passed by the High Court Of Bombay)

HEMENDRA RANCHHODDAS MERCHANT Petitioner(s)

VERSUS

DIR.OF I.T(INVESTIGATION) MUMBAI & ORS Respondent(s)
(With appln. (s) for permission to file additional documents and stay)

WITH

SLP(C) No. 31148-31152/2013
(With Office Report)

Date : 05/11/2014 These petitions were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE A.K. SIKRI

For Petitioner(s) Mr. Dushyant Dave, Sr. Adv.
Mr. Vinay Navare, Adv.
Mr. Satyajeet Kumar, Adv.
Ms. Abha R. Sharma,Adv.

For Respondent(s) Mr. K Radhakrishnan, Sr. Adv.
Ms. Purnima Bhat Kak, Adv.
Ms. Shalini Kumar, Adv.
Mrs. Anil Katiyar,Adv.

UPON hearing the counsel the Court made the following

O R D E R

SLP(C) No. 29309 of 2012

The special leave petition is disposed of in terms of the signed order.

SLP(C) Nos. 31148-31152 of 2013

In view of the order passed in SLP(C) No. 29309 of 2012, these special leave petitions are also disposed of in the same terms, observations and directions.

[Charanjeet Kaur]
Court Master

[Vinod Kulvi]
Asstt. Registrar

[Signed order is placed on the file]