

Pcit (Central)- 3 vs M/S Wave Industries Pvt. Ltd on 27 April, 2022

Author: Manmohan

Bench: Manmohan, Dinesh Kumar Sharma

\$~109

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA 131/2022 & CM APPL.20142/2022

PCIT (CENTRAL)- 3

..... Appella

Through: Mr. Ajit Sharma, Advocate.

versus

M/S WAVE INDUSTRIES PVT. LTD.

..... Respond

Through: Mr. Salil Kapoor and Mr. Sumit
Lalchandani, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

% 27.04.2022 Present appeal has been filed by the appellant challenging the Order dated 13th January, 2020 passed by Income Tax Appellate Tribunal (hereinafter referred to as 'the ITAT') in ITA No. 5240/Del./2015 for the Assessment Year 2010-11.

Learned counsel for the appellant states that the ITAT has erred in allowing the appeal of the assessee and deleting the addition made under Section 153A of the Income Tax Act, 1961 (for short 'the Act') by placing reliance upon Commissioner of Income Tax vs. Kabul Chawla, 380 ITR 573 wherein it was held that in the absence of any incriminating material, the Assessing Officer cannot re-appraise and review already settled issue and the assessment already completed, before the date of search under Section 153A of the Act.

Learned counsel for the appellant states that the Revenue has not accepted the judgment of this Court in Commissioner of Income Tax vs. Kabul Chawla (supra) and has preferred Special Leave petitions which are pending adjudication.

Though the judgment of this Court has been challenged and is pending adjudication before the Supreme Court, yet there is no stay of the said judgment till date.

Consequently, in view of the judgments of the Supreme Court in Kunhayammed and Others vs. State of Kerala and Another, (2000) 6 SCC 359 and Shree Chamundi Mopeds Ltd. Vs. Church of South

India Trust Association CSI Cinod Secretariat, Madras (1992) 3 SCC 1, the present appeal is dismissed being covered by the judgment passed by the learned predecessor Division Bench.

MANMOHAN, J DINESH KUMAR SHARMA, J APRIL 27, 2022 js