

Court No. - 46

Case :- WRIT TAX No. - 829 of 2023

Petitioner :- Chandra Bhan

Respondent :- Union Of India And Another

Counsel for Petitioner :- Tanmay Sadh,Ravi Pratap Singh

Counsel for Respondent :- A.S.G.I.,Gaurav Mahajan,Gopal Verma

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Syed Aftab Husain Rizvi,J.

Heard learned counsel for the petitioner and Mr. Gopal Verma, learned counsel appearing for Union of India.

This petition is directed against the order of re-assessment passed against the petitioner. A preliminary objection is taken to maintainability of the writ petition on the ground that petitioner has remedy of filing statutory appeal where all questions of fact and law can be adjudicated.

Learned counsel for the petitioner states that proper opportunity was not given and that the notice U/s 148 of the Income Tax Act was issued manually instead of it being issued by applying the document identification number (DIN). Such notice is said to be in violation of the circular issued by the department.

Learned counsel appearing for the revenue/ department states that petitioner has participated in the proceedings and only after consideration of his reply the re-assessment proceedings have been concluded.

In the facts of the present case, we are not inclined to entertain the writ petition in view of the availability of statutory alternative remedy. The petitioner has otherwise participated in the proceedings. All questions of fact and law are otherwise left open for appropriate examination by the appellate authority.

The main argument is that the order is without jurisdiction since notices were not

issued on DIN. This argument is noticed only to be rejected since no prejudice is shown to have been caused to the petitioner on account of issuance of manual notices. Admittedly, the petitioner has acknowledged receipt of such notice and has also submitted his objections, which have been duly adverted to. Non-issuance of notice on DIN would thus not be a ground to entertain the writ petition, notwithstanding the availability of alternative remedy.

Subject to the observations made above, this petition is consigned to records.

Order Date :- 18.7.2023

C. MANI