

ITEM NO.11

COURT NO.12

SECTION IX

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 48031/2018

(Arising out of impugned final judgment and order dated 24-09-2018 in WP No. 1730/2018 passed by the High Court Of Judicature At Bombay)

SANJAY JAIN

Petitioner(s)

VERSUS

NU TECH CORPORATE SERVICE LTD. &amp; ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.33143/2019-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.33141/2019-PERMISSION TO FILE PETITION (SLP/TP/WP/..) and IA No.33142/2019-CONDONATION OF DELAY IN REFILING and IA No.33144/2019-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

Date : 01-03-2019 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE HEMANT GUPTA

For Petitioner(s)

Mr. Huzefa Ahmadi, Sr. Adv.  
Mr. Aman Vachher, Adv.  
Mr. Sajid Mohamed, Adv.  
Mr. Ashutosh Dubey, Adv.  
Mrs. Madhurima Mridul, Adv.  
Mr. Abhishek Chauhan, Adv.  
Mrs. Anshu Vachher, Adv.  
Mrs. Rajshree Dubey, Adv.  
Mr. P. N. Puri, AOR

For Respondent(s)

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

Permission to file Special Leave Petition is granted.

Delay in re-filing the SLP is condoned.

The Division Bench of the High Court of Judicature at Bombay,

while setting aside an order of adjustment of the refund due for assessment years 1993-1994 and 1995-1996 against the demands for assessment years 2003-2004 and 2009-2010, adversely commented upon the conduct of the petitioner who was the Deputy Commissioner of Income Tax.

The Special Leave Petition has been preferred by the petitioner only against the adverse remarks made against him in the impugned order of the High Court.

Mr. Huzefa Ahmadi, learned senior counsel submits that there was no warrant or justification for the High Court to make these remarks. He submits that as a matter of fact, the assessee had filed an appeal against the assessment for AY 2009-2010.

We clarify that in the present proceedings, we are not dealing with the rights and contentions of the assessee.

We find merit in the submission which has been urged on behalf of the petitioner that the High Court was not justified in its remarks against the petitioner and in issuing the directions which it has issued. The High Court, in the course of its judgment has issued a slew of directions including: (i) The necessity of weeding out 'deadwood'; (ii) imposition of costs of Rs. 1.5 lakhs which are to be apportioned among two officers, out of them being the petitioner; (iii) Making an adverse entry in the Annual Confidential Reports of the petitioner; and (iv) Denial of promotion including monetary benefits to the petitioner.

Apart from the fact that these directions were issued without specific notice to the petitioner, we find that they were wholly unnecessary having regard to the *lis* before the High Court.

We accordingly, expunge the adverse remarks made against the petitioner in the impugned judgment and order of the High Court as well as the directions issued against the petitioner. Since the assessee is not concerned with the grievance which has been made by the petitioner before this Court, it was not necessary to issue notice to him in the present proceedings.

The Special Leave Petition is, accordingly, disposed of.

However, we clarify that nothing in this order shall affect the rights of the assessee and the Revenue on the merits of the assessments.

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

(MANISH SETHI)  
COURT MASTER (SH)

(SAROJ KUMARI GAUR)  
BRANCH OFFICER