

\$~16

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3537/2021 & CM Nos.10696-97/2021

NRA IRON AND STEEL PVT LTD

..... Petitioner

Through: Mr. Arvind Datar, Sr. Adv. and Mr.
Kapil Sibal, Sr. Adv. with Ms.
Ranjana Roy Gawai, Ms. Anusha
Nagaraja, Ms. Prachi Golechha and
Mr. Ujjwal Jain, Advs.

versus

INCOME TAX DEPARTMENT & ORS.

..... Respondents

Through: Mr. Sunil Agarwal, Adv. for revenue.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

ORDER

%

19.03.2021

CM No.10697/2021

1. Allowed, subject to just exceptions.

W.P.(C) 3537/2021 & CM No.10696/2021

2. The limited issue, which arises for consideration, is: as to whether the pendency of a review petition can be equated with the pendency of an “appeal”. In this context, the scope, import and effect of Section 2(1)(a) of the Direct Tax *Vivad Se Vishwas* Act, 2020 [hereafter referred to as “the 2020 Act”] needs to be construed.

3. What is not in dispute is that the petitioner-assessee fought the Revenue right up to the Supreme Court in respect of the assessment made qua assessment year 2009-2010.

W.P.(C) 3537/2021

1/3

3.1 The petitioner-assessee had succeeded before the Commissioner of Income Tax (Appeals) [in short “CIT(A)”]. The Income Tax Appellate Tribunal (in short “Tribunal”) upheld the order of the CIT(A). This order was passed on 16.10.2017.

4. As a matter of fact, the order of the Tribunal was upheld by this Court as well. The judgement of this Court was rendered on 26.02.2018. However, the same was reversed by the Supreme Court *vide* order dated 05.03.2019 upon a Special Leave Petition, i.e., SLP 29855/2018 being preferred. The petitioner, it appears, filed an application for recall of the said order, which was also rejected by the Supreme Court *vide* order dated 25.10.2019.

5. It is thereafter that the petitioner-assessee preferred a review petition. The review petition was filed on 18.11.2019, which was dismissed *in limine* on 04.02.2020, i.e., after the specified date, which is 31.01.2020.

6. The issue that we have adverted to hereinabove calls for consideration in the backdrop of these facts.

7. According to us, the matter requires consideration.

8. Accordingly, issue notice.

8.1 Mr. Sunil Agarwal accepts service on behalf of the respondent-revenue.

9. Counter affidavit will be filed within two weeks from today. Rejoinder thereto, if any, will be filed before the next date of hearing.

10. In the meanwhile, subject to the petitioner-assessee depositing the disputed tax, as alluded to in the petitioner-assessee's declaration contained in Forms 1 & 2, within a period of four weeks, there shall be a stay on the operation of the order dated 28.01.2021.

11. List the matter on 27.05.2021.

RAJIV SHAKDHER, J

TALWANT SINGH, J

MARCH 19, 2021

pmc

[Click here to check corrigendum, if any](#)