

ITEM NO.40

COURT NO.6

SECTION III

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

Petition(s) for Special Leave to Appeal (C) No(s). 31904/2017
(Arising out of impugned final judgment and order dated 19-01-2016 in SCA No.19320/2015 passed by the High Court of Gujarat at Ahmedabad)

MURLIBHAI FATANDAS SAWLANI

PETITIONER(S)

VERSUS

INCOME TAX OFFICER

RESPONDENT(S)

(IA No.123445/2017-CONDONATION OF DELAY IN FILING and IA No.123451/2017-PERMISSION TO FILE ADDITIONAL DOCUMENTS)

Date : 12-07-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE
HON'BLE MS. JUSTICE INDU MALHOTRA

For Petitioner(s)

Dr.Sushil Balwada, AOR
Ms.Neelam Singh, Adv.
Mr.Sameer Singh, Adv.

For Respondent(s)

Mr.Sanjay Jain, ASG
Mr.H.Raghavendra Rao, Adv.
Mr.Ashok Panigrahi, Adv.
Mr.S.Vinay Ratnakar, Adv.
Mr.Nawab Singh, Adv.
Mrs.Anil Katiyar, Adv.

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

Delay condoned.

The only question involved in this special leave petition is whether notice under Section 148 dated 24th March, 2015 (Annexure P-1) issued by the Income Tax Officer, Ward 1(1)(4) in respect of assessment year 2008-2009 to the petitioner (assessee) is legal or not.

In our view, the proper remedy of the petitioner -assessee would be to raise all pleas before the Assessing Officer in assessment proceedings and if it is decided against him then to carry the issue further in appeal to CIT (Appeals) and then to the Tribunal in second appeal and then to the High Court under Section 260-A of the Income Tax Act, if the occasion so arises in appeal.

We are not, therefore, inclined to interfere with impugned order passed by the High Court in view of the liberty granted above.

Needless to observe the Assessing Officer shall decide all the issues strictly in accordance with law on merits if the assessment proceedings are still pending.

The special leave petition is accordingly disposed of. Pending applications, if any, stand disposed of.

(Ashok Raj Singh)
Court Master

(Chander Bala)
Court Master