
(2006) 02 AHC CK 0262

Allahabad High Court

Case No: None

Commercial Engineers
and Body Builders Co.
(P.) Ltd.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision: Feb. 14, 2006

Acts Referred:

- Income Tax Act, 1961 - Section 271, 274

Citation: (2007) 163 TAXMAN 218

Hon'ble Judges: Prakash Krishna, J; A.K. Yog, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

@JUDGMENTTAG-ORDER

1. By means of the present writ petition the petitioner has sought a writ, p order or direction in the nature of certiorari to quash the order dated 13-1-2006 passed by Commissioner (Appeals)-II, Kanpur for the assessment year 2002-03 and also to quash the penalty proceedings dated 13-1-2006 passed by the same authority, a copy of which has been filed as Annexure-4 to the petition.

2. Heard Shri S.D. Singh, learned Counsel for the petitioner and Shri R.K. Upadhyaya, learned standing counsel for the department. It is admitted at the Bar that the petitioner has already filed a second appeal before Income Tax Tribunal against the order dated 13-1-2006 which is still pending consideration. Further, it appears that he has also filed an application for expeditious disposal of the appeal before the Tribunal and the said application is pending and now 3rd of March, 2006 is the date fixed for disposal of the application. It is expected that Tribunal shall pass an appropriate order on the said application.

3. Learned Counsel for the petitioner has submitted that in the present case penalty notice u/s 274 read with Section 271 of the Income Tax Act was issued for the first time by the Commissioner, income tax(Appeals) and no penalty proceeding was issued by the assessing officer while framing the assessment. Looking to the facts and circumstances of the case we direct that, in the mean time, till the disposal of the appeal before the Tribunal, penalty proceedings may be finalized but the penalty order may not be served on the petitioner.

4. With the aforesaid direction writ petition is disposed of finally.

5. No order as to costs.