(1981) 03 MP CK 0006

In the Madhya Pradesh High Court

Case No : M.C.C. No. 117 of 1979

Anil Kumar Tody APPELLANT

Vs

Commissioner of Wealth-tax RESPONDENT

Date of Decision : 13-03-1981

Acts Referred:
Wealth Tax Act, 1957 — Section 18(1), 18(3)

Citation : (1982) 138 ITR 759

Hon'ble Judges : S.S. Sharma, J;K.N. Shukla, J

Bench : Division Bench

Judgement

Shukla, J.—The Income Tax Appellate Tribunal, Indore Bench, has referred the following questions for our opinion :

"1. Whether, on the facts and in the circumstances of the case, the IAC had jurisdiction to impose penalty u/s 18(1)(c) on March 24, 1977, after the amendment of Section 18(3) of the Wealth-tax Act by the Taxation Laws (Amendment) Act, 1975 ? and

2. Whether, on the facts and circumstances of the case, once the IAC had imposed composite penalties for concealment detected by the WTO and enhanced by the AAC in the value of shares and jewellery on estimate, the order was bad even relating to the part which had been originally detected by the WTO and, therefore, could not be maintained qua that part ?"

2. Material facts are as follows : For the assessment years 1973-74 and 1974-75, on a reference by the WTO to the IAC u/s 18(3) of the W.T. Act, penalties at Rs. 1,80,000 and Rs. 5,000 respectively were imposed u/s 18(1)(c) of the Act by the IAC. In appeal, the Appellate Tribunal reduced the penalties to Rs. 3,650 and Rs. 4,650 respectively.

3. It was contended before the Appellate Tribunal that the IAC who passed the impugned order on 24th March, 1977, jhad no jurisdiction to impose the penalty after the amendment of Section 18(3) by the Taxation Laws (Amendment) Act,

1975, with effect from 1st April, 1976. This objection was overruled by the Tribunal holding that the IAC had the necessary jurisdiction.

4. On similar facts in Indrasen Bhoot Vs. Commissioner of Wealth Tax, , vide order dated July 11, 1980, this court held that the date on which the WTO referred the case to the IAC for imposition of penalty was material for answering the question of jurisdiction. Counsel agree that in this case also it is necessary to obtain a supplementary statement of the case from the Tribunal directing the Tribunal to state the date on which the matter was referred by the WTO to the IAC for the imposition of penalty.

5. The Tribunal is, therefore, directed to send a supplementary statement of the case and to state therein the date on which the matter regarding imposition of penalty was referred by the WTO to the IAC in the instant case. After receipt of such a statement, the reference shall he fixed for further hearing.