(1986) 04 PAT CK 0048

In the Patna High Court

Case No : Taxation Case No''s. 50 and 51 of 1975

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

A. K. MANDAL. — RESPONDENT

Date of Decision : 11-04-1986

Acts Referred:
Income Tax Act, 1961 — Section 256

Citation : (1986) 54 CTR 389

Hon'ble Judges : Uday Sinha, J;Nazir Ahmad, J

Bench : Full Bench

Judgement

Uday Sinha, J. - These are references under s. 256(1) of the IT Act, 1961. The question referred to us for our opinion is :

"Whether on the facts and in the circumstances of this case, the Tribunal was correct in holding that ad-interim payments of Rs. 7,000 and Rs. 15,117 made under Bihar Land Reforms Act, 1950 were payments of capital nature and were not liable to Income Tax in the asst. yrs. 1960-61 and 1961-62 respectively ?"

The abstract question of law referred to us in regard to the nature of the ad-interim compensation was subject matter of consideration before this court in two decisions of this Court, namely, in Commissioner of Income Tax Vs. Maharaja Chintamani Saran Nath Sahdeo, CIT, Bihar, Patna v. Chintamani Saran Nath Sahdeo (Tax Case No. 154 of 1976 and other analogous case disposed of on 9-4-1986). In both those decisions this Court took the view that ad-interim payments made to Ex-proprietors under the Bihar Land Reforms Act, 1950 were payments of capital nature and were thus not liable to tax.

2. Learned Senior Standing Counsel for the Income Tax Department endeavoured to convince us once again that the law in Bihar would be governed by the decision of the Supreme Court in Chandroji Rao Vs. Commissioner of Income Tax, Madhya Pradesh, Nagpur, and not by the decision in S.R.Y. Sivaram Prasad Bahadur Vs. The Commissioner of Income Tax, Hyderabad, . I regret, I am

unable to take a view different from what was taken in two Division Bench decisions of this Court. For the reasons, mentioned in these decisions, I am of the view that this case as well the ad-interim payments of Rs. 7,000 and Rs. 15,117 under the Bihar Land Reforms Act, 1950 were payments of capital nature and were not liable to tax in the relevant assessment years.

3. For the reasons, stated above, the references are answered accordingly in favour of the assessee and against the Revenue. There shall be no order as to costs.

Nazir Ahmad, J. - I agree.

