(2008) 01 KAR CK 0015

In the Karnataka High Court

Case No : Income Tax A. No. 251 of 2003

Commissioner of Income Tax APPELLANT

Vs

B. Sumangaladevi RESPONDENT

Date of Decision : 08-01-2008

Acts Referred:
Income Tax Act, 1961 — Section 143 (3), 147, 148, 260 A

Citation : (2009) 313 ITR 285

Hon'ble Judges : K.L. Manjunath, J;Deepak Verma, J

Bench : Division Bench

Advocate : M.V. Seshachala, for the Appellant; M.V. Javali, for the Respondent

Final Decision : Dismissed

Judgement

Deepak Verma, J.—Heard Sri M.V. Seshachala for the appellant and Mr. M.V. Javali, for the respondent.

2. This appeal u/s 260A of the Income Tax Act, 1961 (hereinafter shall be referred to as "the Act"), is at the instance of the Revenue against the order of the Income Tax Appellate Tribunal, Panaji Bench, dated July 17, 2003, passed in I.T.A. No. 27/Panj/2002 for the assessment year 1987-88. The questions of law as formulated by appellant read as here-under:

1. Whether, on the facts and circumstances of the case, the Tribunal was justified in holding that the notices issued u/s 148 of the Act, for the assessment year 1987-88 is bad in law?

2. Whether, under the facts and circumstances of the case, the Tribunal was justified in declaring the assessment order framed u/s 143(3) read with Section 147 as bad in law and consequently quashing the same for the assessment year 1987-88?

3. At the outset learned Counsel appearing for the assessee conceded that questions of law as had been formulated by the appellant stands answered by

the judgment of this Court C.N. Nataraj Vs. Fifth Income Tax Officer, City Circle II, Bangalore, as also by the judgment of the Supreme Court Commissioner of Income Tax, Gujarat II Vs. Kurban Hussain Ibrahimji Mithiborwala, . The Supreme Court has held as under (page 823):

It is well-settled that the Income Tax Officer''s jurisdiction to reopen an assessment u/s 34 of the Indian Income Tax Act, 1922, depends upon the issuance of a valid notice. If the notice issued by him is invalid for any reason the entire proceedings taken by him would become void for want of jurisdiction.

4. Precisely the same questions have been projected in this appeal. It is answered by a Bench of this Court as also by the Supreme Court against the Revenue and in favour of the assessee.

5. Thus, in our considered opinion, we find that no substantial question of law arises. The appeal is accordingly dismissed.