(2005) 08 SC CK 0078

In the Supreme Court Of India

Case No : Civil Appeal No. 3976 of 2003 9 August 2005

Commissioner of Income Tax APPELLANT

Vs

Insilco Ltd. RESPONDENT

Date of Decision : 09-08-2005

Acts Referred:
Income Tax Act, 1961 — Section 260A

Citation : (2005) 198 CTR 114 : (2005) 278 ITR 1 : (2005) 149 TAXMAN 112

Hon'ble Judges : Ruma Pal, J;Mrs. Ruma Pal, J;Dr. A.R. Lakshmanan, J;A.R. Lakshmanan, J

Bench : Full Bench

Advocate : Rajiv Dutta, Anuvrat Sharma and B.V. Balaram Das, with him for the Appellant S. Ganesh,V. P. GuPta, Jagdish Kumar Chawla and Basant Kumar, with him, for the appearing parties;

Final Decision : Dismissed

Judgement

The grievance of the appellant is that the High Court, while admitting the appeal in respect of two assessment years u/s 260A of the Income Tax Act, 1961, directed that only the appeal relating to the assessment year 1990-1991 would be admitted. As far as the second assessment year 1991-92 was concerned, the High Court was of the view that the issue had been correctly decided in favour of the assessee by the Tribunal relying upon the decisions of the Patna High Court in Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others and Uday Mistanna Bhandar and Complex, Tej Kumari Devi and Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others, as affirmed by this court in Commissioner of Income Tax and Others Vs. Ranchi Club Ltd., .

The appellant has said that Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others was not an authority for the proposition as determined by the High Court and it erred in not admitting the appeal for the assessment year 1991-92. It is said that the decision of the High Court in Ranchi Club Ltd. Vs. Commissioner of Income Tax and Others did not lay down that interest could not be charged unless the assessment order mentioned the specific section as held by the Tribunal. Therefore, what was affirmed by this court was not the requirement to charge interest under a specific section. We are unable to uphold this submission, having regard to the clear language of the decision of the Patna High Court. It was without question affirmed by this court.

The second ground on which the appellant has contended that the appeal should have been admitted is that the law laid down in Commissioner of Income Tax and Others Vs. Ranchi Club Ltd., had been changed by virtue of the decision of the Constitution Bench in Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and Others, . Learned counsel appearing for the respondent on the other hand has urged that the decision of the Constitution Bench did not at all affect the earlier affirmation of the Commissioner of Income Tax and Others Vs. Ranchi Club Ltd., by this court. In our opinion the dispute raises a question of law which requires consideration.

The appeal is allowed on this short ground and the matter remanded back to the High Court after admitting the appeal for the assessment year 1991-92.

