(1996) 04 AHC CK 0122

In the Allahabad High Court

Case No : Income-tax Reference No. 98 of 1980

Commissioner of Income Tax APPELLANT

Vs

K.K. Agarwal RESPONDENT

Date of Decision : 02-04-1996

Acts Referred:
Income Tax Act, 1961 — Section 271(1)

Citation : (1996) 221 ITR 877

Hon'ble Judges : M. Katju, J;B.S. Chauhan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This is an Income Tax reference u/s 256 of the Income Tax Act, 1961, in which the following question has been referred for our opinion :

"Whether, on the facts and in the circumstances of the case and on a correct interpretation of the Taxation Laws (Amendment) Act, 1975, the Appellate Tribunal was justified in holding that the Inspecting Assistant Commissioner had no jurisdiction to pass any order of penalty u/s 271(1)(c) on/after April 1, 1976, and in that view cancelling the penalty imposed by the Inspecting Assistant Commissioner ?"

2. The relevant assessment year is 1973-74 and for this year the Inspecting Assistant Commissioner u/s 271(1)(c), on October 20, 1978, imposed a penalty of Rs. 20,000.

3. The matter came up to the Income Tax Appellate Tribunal, which following the decision of this court in the case of Commissioner of Income Tax Vs. Om Sons, , held that the Inspecting Assistant Commissioner had no jurisdiction to impose penalty. Hence, this reference.

4. The decision of this court in the case of Commissioner of Income Tax Vs. Om Sons, has been reversed by the Supreme Court in the case of Commissioner of

Income Tax, Orissa Vs. Dhadi Sahu, .

5. In view of this, we set aside the order of the Tribunal dated May 21, 1979, and remand the matter to the Tribunal to pass a fresh order on the merits in the light of the aforesaid judgment of the Supreme Court in Commissioner of Income Tax, Orissa Vs. Dhadi Sahu, .

