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(1977) 03 AHC CK 0003

In the Allahabad High Court

Case No : Income Tax Application No. 1425 of 1976

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

M/S. LALLUMAL RAMESH CHAND. — RESPONDENT

Date of Decision : 25-03-1977

Acts Referred:
Income Tax Act, 1961 — Section 256, 271

Citation : (1977) 6 CTR 122

Hon'ble Judges : R. M. Sahai, J

Bench : Division Bench

Judgement

R. M. Sahai, J. - This is an application under S. 256 of the Income Tax Act, 1961.

2. The two question raised on behalf of the Commissioner of Income Tax for being referred to this Court are :

(1) Whether on the facts and in the circumstances of the case there was material on record justifying the Tribunals finding that the assessee has discharged the onus under the Explanation to S. 271(1)(c) of the Income Tax Act, 1961.

(2) Whether on the facts and in the circumstances of the case the Tribunal was legally correct in cancelling penalty of Rs. 32,000/- imposed by the I.A.C. under S. 271(1)(c) read with its Explanation.

3. The Income Tax Appellate Tribunal has found it as a fact that ht assessee did not commit any fraud not was it guilty of willful negligence and concealment of its income in filing its return. This is a pure finding of fact and we do not think that any question of law arises out of the order of the Tribunal. The second question is of a consequential nature. Accordingly we dismiss this application.

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