(1984) 01 MP CK 0006

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 169 of 1980

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

PARMANAND SWAROOPCHAND. — RESPONDENT

Date of Decision : 13-01-1984

Acts Referred:
Income Tax Act, 1961 — Section 184(7)

Citation : (1985) 46 CTR 72

Hon'ble Judges : G. L. Oza, C.J

Bench : Division Bench

Judgement

G. L. Oza, C.J. - This is a reference made by the ITAT at the instance of the revenue for answering the question :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that the order of the ITO under s. 184(7) is appealable and consequently in setting aside the AACs order and directing him to dispose of the case on merits ?"

2. The facts stated in the order of reference are that the assessee filed its return of income on 2-1-1974 in the status of a registered firm. The assessees previous year ended on Diwali, 1971. Along with the return of income, Form No. 12 was also filed on 2-1-1974. The ITO held that Form No. 12 filed by the assessee was filed late. He, therefore, refused to give effect to the registration of the firm u/s. 184(7). On appeal, the AAC held that the appeal against the order of ITO under s. 184(7) was not maintainable. He, therefore, maintained the order passed by the ITO.

3. The Appellate Tribunal, following earlier decision held that the order passed the ITO u/s. 187(7) of the IT Act, 1961 refusing continuation of the registration is an appealable order. The order passed by the ld. AAC was set aside and the case was sent back to him for disposal in accordance with law. The Tribunal thereafter at the instance of the revenue has referred this matter for answering

the question quoted above.

4. This court in Commissioner of Income Tax Vs. Jabalpur Transport Development Co., , has taken the view that under similar circumstances, the order passed by the ITO refusing continuation of the registration u/s. 184(7) is appealable and this view has also been taken in some other cases later on.

5. In view of the decision of this court, the reference is answered in favour of the assessee. The question is answered in the affirmative.

In the circumstances, the parties are directed to bear their own costs.

