
(2010) 05 AHC CK 0076
In the Allahabad High Court
Case No : IT Appeal No's. 19 and 20 of 2004

Commissioner of Income Tax	Vs	APPELLANT
Rajeev Sharma		RESPONDENT

Date of Decision : 24-05-2010

Acts Referred:

Income Tax Act, 1961 — Section 139, 142(1), 143, 143(2), 143(3)

Citation : (2011) 336 ITR 678

Hon'ble Judges : S.C. Chaurasia, J;Devi Prasad Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Devi Prasad Singh, J.—In both these two Income Tax appeals, u/s 260A of the Income Tax Act, 1961 (in short the Act) common question of law is involved. Hence both the appeals are decided by this common judgment.

2. The controversy in both the appeals relates to the assessment years 1994-95 and 1995-96 with regard to escaped liability.

Brief facts of the case

3. The Assessee Respondent filed original return dated 12-3-1996, declaring total income of Rs. 3,04,200. During the course of assessment proceedings of the year 1996-97, it came to light that the Assessee acquired gift for total amount of Rs. 12,51,000, in the name of his minor son from one Shri Abdul Hasan Hanif of Lucknow through his NRE account.

4. The case was reopened u/s 148 by issuing notice on 26-12-2000. The assessment completed u/s 147 read with Section 148 of the Act for total income of Rs. 16,10,400 whereas, in addition, Rs. 12,51,000 was made with regard to unexplained gift on the ground that the donor was not available on the given address nor was produced before the assessing officer in spite of opportunity provided.

5. The addition of income was confirmed by the Commissioner (Appeals) with observation that Sri Hanif was not related to Assessee though confirmatory letter was filed and gift was made by cheque, it may not be held that the Assessee has discharged his onus. More so, when the donor was not found at the given address nor was produced before the assessing officer for cross-examination.

6. The Commissioner (Appeals) has rejected the contention of the Assessee that no notice was issued u/s 143(2) of the Act after filing of return in response to notice u/s 148 hence, no addition can be made. It has been noted by the Commissioner (Appeals) that it shall be deemed to be the income u/s 69 of the Act and as such, the appeal (sic-amount) is assessable in hands of Assessee u/s 64(1A) of the Act. The Assessee submitted reply on 12-7-2002 along with the list of case laws but the Commissioner (Appeals) has not considered those cases. It has also been noted by the Commissioner (Appeals) that deposit in the NRE account has been diverted to the Appellants minor son except for small amount of Rs. 8,990 which is the balance on the date on which the last debit of Rs. 41,000 was debited to the NRE account. The Commissioner (Appeals) held that the Assessee had filed return in response to notice u/s 148 of the Act, hence even if no notice u/s 143 of the Act was issued, therefore, after filing return it shall not be fatal and the contention of the Assessee was rejected on the ground of non-issuance of notice u/s 143(2) of the Act.

7. The Tribunal noted that the assessing officer issued notice u/s 148 of the Act on 29-3-2001 for the assessment year 1994-95 in response to which the Assessee informed that he had already filed return of income on 29-3-1996. Hence notice u/s 148 be withdrawn. Thereafter assessing officer issued notice under Sections 143(2) and 142(1) of the Act, received by the Assessee on 3-1-2002 informing the Assessee that notice u/s 148 was pending and has not been withdrawn as requested by the Assessee, vide letter dated 7-5-2001. Thereafter the Assessee sought adjournment on 21-1-2002 with assurance that return shall be filed by 29-1-2002. However, the return was filed on 7-2-2002 on an income of Rs. 1,10,273 as per earlier return dated 29-3-1996. The Tribunal was of the view that after filing of return on 7-2-2002, a notice u/s 143(2) should have been issued being mandatory in nature. It has been noted by the Tribunal that after lapse of almost 8 years, and keeping in view the fact that transaction was through bank account, confirmatory letter was filed along with the photocopy of NRE account and passport, the adverse inference could not have been drawn by the assessing authority.

8. It was vehemently argued by the revenue that the letter dated 7-5-2001, sent by the Assessee in response to notice u/s 148 of the Act, should be deemed to be filing of return reiterating earlier one. The submission of the Appellants counsel does not seem to be correct. For convenience, letter dated 7-5-2001 is reproduced as under:

7-5-2001

The Dy. CIT (O.S.D.) Salary Circle Lucknow.

Sub: Notice u/s 148 of the Income Tax Act, 1961 for the assessment year 1994-95

Madam,

I am in receipt of your notice u/s 148 of the Income Tax Act, 1961 dated 29-3-2001 for the assessment year 1995-96.

In this connection, have to inform you that, I have been filed the true and correct return of income for the aforesaid assessment year in salary Ward 2(2), Lucknow vide receipt No. 7138 dated 29-3-1996. The photocopy of acknowledgement of return is enclosed for reference.

Therefore, I request you to may kindly withdraw the notice u/s 148 issued by you Honour and oblige.

Thanking you,

Yours faithfully

illegible Rajiv Sharma R/O B-29, Sector K Aliganj, Lucknow

Enclosure: As above.

9. In view of the above, submission of the learned Counsel for the Appellant at the face of record, seems to be not correct that by submitting letter dated 7-5-2001, the Assessee shall be deemed to have submitted his return and in consequence thereof, the revenue has rightly proceeded ahead in the matter.

10. The revenue after receipt of the letter of the Assessee dated 7-1-2001, sent its reply dated 18-12-2001 and gave a last opportunity to the Assessee to file return. It shall be appropriate to reproduce the letter of the revenue dated 18-12-2001 as under:

Office of the Addl. CIT, Range-VI, Lucknow F. No. DCITR-VI/Asstt. Pro/LKO/2001-02 Dt. 18-12-2001

To

Shri Rajeev Sharma,

B-29, Sector K Aliganj, Lucknow.

Sub: Assessment proceedings u/s 148 for assessment year 1994-95

Please refer to your letter dated 7-5-2001 received in the O/o Dy. CIT (OSD) Salary Circle, Lucknow on 28-5-2001 in response to notice u/s 148 for assessment year 1994-95 (erroneously mentioned in your letter as 1995-96).

It is hereby informed that the Section 148 proceedings in the above-mentioned year are still pending and are not withdrawn. You are required to file your return

in compliance to notice u/s 148, which is already overdue. This is a final opportunity to make compliance, failing which assessment proceedings shall be completed ex parte. It shall be presumed that you have nothing to say in this regard and your income shall be assessed on the basis of material/information available with this office. Date of compliance is fixed for 8-1-2002. Notices under Sections 143(2) and 142(1) are also being enclosed.

Illegible Deepali Chandra Dy. CIT, Range-VI, Lucknow. Seal

11. After receipt of letter dated 18-12-2001, the Assessee has rightly filed return dated 7-2-2002 in response to notice dated 26-12-2000. In consequence thereof, notice u/s 143(2) of the Act should have been served.

12. The Tribunal allowed the appeal directing for deletion of amount of Rs. 12,51,000. Hence the present appeal.

Substantial questions of law:

13. These two appeals were admitted on the following substantial questions of law:

(a) Whether notice u/s 143(2) of the Act issued after the Assessee proclaimed his original return as true and correct is not a valid notice just because it was not issued with reference to a pending return?

(b) Whether on the facts and in the circumstances of the case the learned Tribunal was justified in holding that non-issuance of notice u/s 143(2) of the Act has vitiated the assessment order and ignoring that issuance of such notice is a machinery provision and does not go to the root of the assessment, more so when the Assessee was afforded and he availed full opportunity?

(c) Whether notice u/s 143(2) of the Act is a machinery provision and as per wording of Section 148(1) so far as may be provisions of Section 143(2) with reference to reassessment proceedings u/s 148 need not be applied into but only to the extent possible?

(d) Whether the Assessee has discharged his onus by furnishing the name, confirmation letter, copy of NRE bank account and passport of the NRI donor even though the identity of donor could not be established what to talk about proving his creditworthiness and genuineness of the transaction?

14. On behalf of the Appellant, learned Counsel has relied upon the judgments reported in (2008) 115 ITD 384 and Tiwari Kanhaiya Lal Vs. Commissioner of Income Tax,

15. Learned Counsel for the Respondent has relied upon the cases reported in P. DOSHI Vs. COMMISSIONER OF Income Tax, GUJARAT, R. Dalmia and Another Vs. Commissioner of Income Tax, Vipin Khanna Vs. Commissioner of Income Tax and Others, Mrs. Rama Sinha Vs. Commissioner of Income Tax and Another, GKN Driveshafts (India) Ltd. v. ITO (2003) 259 ITR 19 (SC); Commissioner of Income

Tax Vs. Sahara India Savings and Investment Corporation Ltd., The Commissioner of Income Tax Vs. M. Chellappan and P.L. Gandhi, CWT v. HUF of H.I.I. Ijate Shri J.M. Scindia (2008) 5 DTR (Bom) 19 and Assistant Commissioner v. Hotel Blue Moon (2010) 35 DTR (SC).

Discussion and finding

16. Section 148 of the Act relates to escaped assessment. It provides that before proceeding for assessment or reassessment or recomputation u/s 147, the assessing officer shall serve on the Assessee a notice requiring him to furnish within such period as may be specified in notice, a return of his income or the income of any other person in respect of which he is assessable under the Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed, and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished u/s 139.

17. Clause (b) of Section 148(1) of the Act provides that subsequent notice served u/s 143(2) of the Act after expiry of 12 months specified in the proviso to Sub-section (2) of Section 143, as it stood before the Finance Act, 2002, shall be deemed to be valid notice.

18. It shall be appropriate to take note that Explanation of Section 149 of the Act provides that in determining the income chargeable to tax which has escaped the assessment for the purpose of Sub-section (1) of Section 149, the proviso of Explanation 2 of Section 147 shall also apply.

19. While computing escaped assessment, return filed in response to notice u/s 148 shall be deemed to be furnished u/s 139 of the Act. Meaning thereby, procedure of Section 139 of the Act shall be followed while dealing with the case of escaped assessment u/s 148 of the Act.

20. The plain reading of Section 148 of the Act further reveals that within the statutory period specified therein, it shall be incumbent to send a notice u/s 143(2) of the Act.

21. Sub-section (2) of Section 143 provides that after receipt of return furnished u/s 139 of the Act in response to a notice u/s 142(1) of the Act, in case assessing officer has reason to believe that any claim of loss, exemption, deduction, allowance or relief made in the return is inadmissible, he shall serve on the Assessee a notice specifying particulars of such claim. It shall be appropriate to reproduce Sub-section (2) of Section 143 of the Act:

143(2). Where a return has been furnished u/s 139, or in response to a notice under Sub-section (1) of Section 142, the assessing officer shall-

(i) where he has reason to believe that any claim of loss, exemption, deduction, allowance or relief made in the return is inadmissible, serve on the Assessee a

notice specifying particulars of such claim of loss, exemption, deduction, allowance or relief and require him on a date to be specified therein to produce, or cause to be produced, any evidence or particulars specified therein, or on which the Assessee may rely, in support of such claim:

Provided that no notice under this Clause shall be served on the Assessee on or after the 1-6-2003;

(ii) notwithstanding anything contained in Clause (i), if he considers it necessary or expedient to ensure that the Assessee has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, serve on the Assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced, any evidence on which the Assessee may rely in support of the return:

Provided that no notice under this Clause shall be served on the Assessee after the expiry of six months from the end of the financial year in which the return is furnished.

22. The provision contained in Sub-section (2) of Section 143 of the Act is mandatory and legislature to their wisdom by using the words reason to believe had cast a duty on the assessing officer to apply mind to the material on record and after being satisfied with regard to escaped liability, shall serve notice specifying particulars of such claim.

23. In view of the above, after receipt of return in response to notice u/s 148, it shall be mandatory for the assessing officer to serve a notice under Sub-section (2) of Section 143 assigning reason therein.

24. While interpreting the words reason to believe, Honble Supreme Court in the case of Calcutta Discount Company Limited Vs. Income Tax Officer, Companies District, I and Another, while interpreting the words reason to believe observed that for existence of reasons for that belief, the belief must be held in good faith and it cannot be merely a pretence. The expression does not mean a purely subjective satisfaction of the Income Tax Officer; the form of decision as to the existence of reasons and the belief is not in the mind of Income Tax Officer. If it be asserted that the Income Tax Officer had reason to believe that income had been under-assessed by reason of failure to disclose fully and truly the facts material for assessment, the existence of the belief and the reasons for the belief, but not the sufficiency of the reasons, will be justiciable. The relevant portion from the case of Calcutta Discount Co. (supra) is reproduced as under:

14. The expression reason to believe postulates belief and the existence of reasons for that belief. The belief must be held in good faith : it cannot be merely a pretence. The expression does not mean a purely subjective satisfaction of the Income Tax Officer : the forum of decision as to the existence of reasons and the belief is not in the mind of the Income Tax Officer. If it be asserted that the Income Tax Officer had reason to believe that income had been underassessed

by reason of failure to disclose fully and truly the facts material for assessment, the existence of the belief and the reasons for the belief, but not the sufficiency of the reasons, will be justiciable. The expression therefore predicates that the Income Tax Officer holds the belief induced by the existence of reasons for holding such belief. It contemplates existence of reasons on which the belief is founded, and not merely a belief in the existence of reasons inducing the belief; in other words, the Income Tax Officer must on information at his disposal believe that income has been underassessed by reason of failure fully and truly to disclose all material facts necessary for assessment. Such a belief, be it said, may not be based on mere suspicion : it must be founded upon information.

25. In the case of Smt. Kesar Devi Vs. Union of India (UOI) and Others, Honble Supreme Court in a case reported in Aslam Mohd. Merchant Vs. Competent Authority and Others, had reiterated the aforesaid principle of law as under:

Para 28. ...Both the statutory elements, namely, reason to believe and recording of reasons must be premised on the materials produced before him. Such materials must have been gathered during the investigation carried out in terms of Section 68E or otherwise. Indisputably therefore, he must have some materials before him. If no such material had been placed before him, he cannot initiate a proceeding. He cannot issue a show-cause notice on his own SSS. A roving enquiry is not contemplated under the said Act as properties sought to be forfeited must have a direct nexus with the properties illegally acquired.

29. It is now a trite law that whenever a statute provides for reason to believe, either the reasons should appear on the face of the notice or they must be available on the materials which have been placed before him....

31. In Smt. Kesar Devi Vs. Union of India (UOI) and Others, wherein Fatima Mohd. Amtn (supra) was distinguished by a Bench of this Court, inter alia, opining that no nexus or link between the money of the debt and property sought to be forfeited is required to be established under the scheme of the Act, stating;

10. ...The condition precedent for issuing a notice by the competent authority u/s 6(1) is that he should have reason to believe that all or any of such properties are illegally acquired properties and the reasons for such belief have to be recorded in writing. The language of the Section does not show that there is any requirement of mentioning any link or nexus between the convict or detenu and the property ostensibly standing in the name of the person to whom the notice has been issued.

26. In another case, reported in Commissioner of Income Tax, Delhi Vs. Kelvinator of India Limited, Honble Supreme Court held that change of opinion in view of the circular dated 30-10-1989, shall not be sufficient reason for reassessment. Reopening of assessment may be done provided the assessing officer has reason to believe that the income has escaped assessment based on tangible material.

27. In view of the above, in absence of any notice issued under Sub-section (2) of Section 143 after receipt of fresh return submitted by the Assessee in response to notice u/s 148, the entire procedure adopted for escaped assessment shall not be valid.

28. By catena of judgments, Honble Supreme Court and this Court settled that a thing should be done in the manner provided by the Act and statutes and not otherwise. When the statute provides for a particular procedure, the authority has to follow the same and cannot be permitted to act in contravention of the same. It has been hitherto uncontroverted legal position that where a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods or mode of performance are impliedly and necessarily forbidden. Vide Taylor v. Taylor (1876) 1 Ch.D. 426 ; AIR 1936 253 (Privy Council) Deep Chand Vs. The State of Rajasthan, Patna Improvement Trust Vs. Smt. Lakshmi Devi and Others, State of Uttar Pradesh Vs. Singhara Singh and Others, ; Nika Ram Vs. State of Himachal Pradesh, Ramchandra Keshav Adke (Dead) by Lrs. and Others Vs. Govind Joti Chavare and Others, Chettian Veetil Ammad and Another Vs. Taluk Land Board and Others, State of Bihar and Another Vs. J.A.C. Saldanha and Others, A.K. Roy and Another Vs. State of Punjab and Others, State of Mizoram Vs. Biakchhawna, J.N. Ganatra Vs. Morvi Municipality, Morvi, Babu Verghese and Others Vs. Bar Council of Kerala and Others, and Chandra Kishore Jha v. Mahavir Prasad (1998) 8 SCC 266.

29. The aforesaid settled legal proposition is based on a legal maxim "Expressio unius est exclusio alterius", meaning thereby that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner and following other course is not permissible. This maxim has consistently been followed, as is evident from the cases referred to above. A similar view has been reiterated in Haresh Dayaram Thakur Vs. State of Maharashtra and Others, Delhi Administration Vs. Gurdip Singh Uban and Others, Commissioner of Income Tax, Mumbai Vs. Anjum M.H. Ghaswala and Others, Ram Phal Kundu Vs. Kamal Sharma,

30. Notice u/s 148 of the Act for assessment year 1994-95 was issued on 29-3-2001 whereas for the assessment year 1995-96, it was issued on 26-12-2000. In response to the notice, the Assessee sent letter dated 7-5-2001 to drop the proceeding. Therefore, vide letter dated 18-12-2001, the Dy. CIT informed that proceeding may not be dropped and given last opportunity to file return. Along with letter dated 18-12-2001, notices under Sections 143(2) and 142(1) were also sent. In consequence thereof, the Assessee filed return on 7-2-2002 for both the assessment years. After filing of return, the assessing officer should have applied mind and after considering the material on record on "reason to believe", notice u/s 143(2) of the Act should have been issued afresh.

31. It has been vehemently argued by the Appellants Counsel that the Assessee himself has sent a letter dated 7-5-2001 informing with regard to filing of original return in the year 1996 and dropping of proceeding. It should be deemed

to be a return filed in response to notice u/s 148. Submission of Appellants counsel seems to be not correct in view of subsequent letter dated 18-12-2001 (supra), sent by the assessing officer informing the pendency of proceeding and in consequence thereof, filing of return by the Assessee on 7-2-2002.

32. Since return was filed on 7-2-2002, in response to notice u/s 148 of the Act, earlier notice dated 29-3-2001 may not be treated as valid for the purpose of escaped assessment. The legislature to their wisdom had categorically provided that after receipt of notice u/s 148 of the Act a fresh return may be filed and in consequence thereof, the assessing officer has to apply his mind to the contents of fresh return and then issue a notice u/s 143(2) of the Act. The satisfaction under reason to believe, must be recorded by the assessing officer after applying mind to the contents of fresh return before issuing a notice u/s 143(2) of the Act.

33. It is a settled law that taxing statute should be construed strictly without subtraction or addition of words in the statutory provisions. Accordingly, the provisions contained in Section 148 of the Act with regard to escaped assessment must be construed strictly with regard to procedure prescribed for escaped assessment.

34. In *Diwan Bros. Vs. Central Bank of India, Bombay and Others*, Honble Supreme Court held that the court has to interpret the fiscal statute strictly so as to give benefit of doubt to litigant or taxpayer.

35. In *K.V. Shivakumar and Anr. v. Appropriate Authority* (2000) 3 SCC 485, Honble Supreme Court has held that equity or hardship is not relevant consideration for interpretation for taxing law.

36. In *The State of West Bengal Vs. Kesoram Industries Ltd. and Others*, Honble Supreme Court held that taxing statute should be construed strictly. If a person sought to be taxed comes within the letter of law, he must be taxed. However, in case he does not fall in taxing category, tax cannot be imposed. There is no room for any intendment. There is no equity about tax. There is no presumption as to tax. Nothing is to be read and nothing is to be implied.

37. In *Sneh Enterprises Vs. Commnr. of Customs, New Delhi*, Honble Supreme Court held that in case of dispute or ambiguity, construction has to be made in favour of taxpayer against the revenue.

38. A Division Bench of Allahabad High Court in *Lipton India Ltd. v. State of U.P. and Ors.* 2009 (27) LCD 161 (All), in which one of us (Honble Devi Prasad Singh, J.) was a member, after considering various pronouncements of Honble Supreme Court, held that while interpreting the statutory provisions, every section, every word, should be looked into in a reference to tax.

39. In *Commissioner of Wealth Tax, Andhra Pradesh Vs. Officer-in-charge (Court of Wards), Paigah*, Honble Supreme Court held that the correct rule is that the Courts have to endeavour to find out the exact sense in which the words have been used in a particular context.

40. In (1994) 206 ITR 688 (SC) Honble Supreme Court held that taxing statute in particular, has to be strictly construed and there is no equity in taxing provision.

41. In Commissioner of Income Tax, Gujarat, Ahmedabad Vs. Sakarlal Balabhai and Co. Ltd. and others, Honble Supreme Court held that in interpreting the taxing provision, one has merely to look to the words of provision. It is, not permissible to construe any provision of a statute, much less a taxing provision, by reading into it more word than it contains. If a Section of a statute is considered as ambiguous it would not be inappropriate to find out the reason which persuaded the select committee to recommend the inclusion of that section.

42. In Mohd. Ali Khan v. CWT AIR 1997 SC 1165, Honble Supreme Court held that taxing statute should be construed in their natural, popular and ordinary senses.

43. In Mahim Patram Private Ltd. Vs. Union of India (UOI) and Others, Honble Supreme Court held that taxing statute should be strictly interpreted.

44. In Mathuram Agarwal v. State of U.P. : AIR 2000 SC 109, Honble Supreme Court held that taxing statute should be interpreted in the spirit of the statute.

45. In view of the above, the provision contained in Section 143(2) of the Act is mandatory in nature and it shall be obligatory for the assessing officer to apply mind to the contents of the return filed in response to notice u/s 148 of the Act and record reasons and thereafter, issue notice u/s 143(2) of the Act before proceeding to decide the controversy with regard to escaped assessment.

46. In the case of R.K. Gupta (supra), decided by the Tribunal, the reassessment order has been held to be invalid due to want of notice u/s 143(2) of the Act.

47. In the case of Kanhaiya Lal (supra) a Bench of Rajasthan High Court held that in case the Assessee informs that the original return should be treated as fresh return, then the information so communicated should be treated as fresh return and amounts to sufficient compliance of Section 148 of the Act to proceed further. However, in the present case, initially, the Assessee prayed for dropping proceeding and later on, filed return. As discussed hereinabove, the judgment seems to be not applicable.

48. In the case of M. Chellappan (supra), Madras High Court held that original assessment u/s 147 and completion of fresh assessment with regard to escaped liability without issuing notice Section 143(2) of the Act, shall not be valid. Punjab & Haryana High Court has also reiterated the same principle in the case of Vipan Khanna (supra).

49. In the case of R. Dalmia (supra), Honble Supreme Court held that for assessment or reassessment u/s 147 of the Act, the procedure laid down in Section 139 including Section 144B should be followed. To reproduce relevant

portion from the judgment of R. Dalmia (supra) as under:

As to the argument based upon Sections 144A, 246 and 263, we do not doubt that assessments u/s 143 and assessments and reassessments u/s 147 are different, but in making assessments and reassessments u/s 147 the procedure laid down in Sections subsequent to Section 139, including that laid down by Section 144B, has to be followed.

50. In the case of Rama Singh (supra), the High Court has reiterated the principle of law that while proceeding with the escaped assessment u/s 148, the procedure u/s 139 should be followed.

51. In the case of J.M. Scindia (sic-Hotel Blue Moon (supra)) Honble Supreme Court has held that provisions contained in Section 143(2) with regard to undisclosed income apply. Honble Supreme Court further held that provisions contained u/s 143(2) cannot be dispensed with. Relevant portion of the judgment of J.M. Scindia (sic-Hotel, Blue Moon (supra)) is reproduced as under:

...However, if an assessment is to be completed u/s 143(3) read with Section 158BC, notice u/s 143(2) should be issued within one year from the date of filing of block return. Omission on the part of the assessing authority to issue notice u/s 143(2) cannot be a procedural irregularity and the same is not curable and, therefore, the requirement of notice u/s 143(2) cannot be dispensed with.

52. Accordingly, the questions framed are answered in favour of Assessee against the revenue.

53. Both the appeals are dismissed. The judgments of the Tribunal are upheld.