(1987) 04 BOM CK 0065

In the Bombay High Court

Case No : Income-tax Reference No. 451 of 1975

Commissioner of Income Tax APPELLANT

Vs

S.M. Mehta RESPONDENT

Date of Decision : 10-04-1987

Acts Referred:
Income Tax Act, 1961 — Section 256(2)

Citation : (1987) 63 CTR 133 : (1988) 170 ITR 582 : (1987) 32 TAXMAN 485

Hon'ble Judges : T.D. Sugla, J;Bharucha, J

Bench : Division Bench

Judgement

Bharucha, J.—The carelessness of the Revenue is in evidence once again.

2. In an allied matter, the Income Tax Appellate Tribunal had refused a reference. The Revenue. had then applied to this court u/s 256(2) of the Income Tax Act, 1961, and the application had been granted. The Tribunal was in the process of drawing up the statement of the case therein at the time when it drew up the statement of the case in the present matter. In the statement of case in the present matter, the Tribunal recorded that "the Commissioner of Income Tax undertakes to make available before the hon'' ble High Court the requisite number of printed copies of the statement of the case to be submitted to the hon'' ble High Court pursuant to its above order, at the time of the hearing of the reference application under, consideration".

3. The reference under consideration reached hearing before us on March 26, 1987. It was then adjourned to enable the Revenue to ascertain what had happened in regard to the allied reference aforementioned. The matter having reached once again today, we find that neither that information is available nor can the Revenue produce any Copy of the statement of the case which the Commissioner of Income Tax undertook to produce as recorded in the present statement of the case.

4. Mr. Jetly applies for an adjournment to enable the Revenue to produce such

statement of the case. We have already adjourned the matter. We decline to adjourn it again because no information can be given to us as to the steps, if any, taken by the Revenue between March 26, 1987, and today.

Having regard to the failure of the Commissioner of Income Tax to abide by his undertaking given before the Tribunal, upon the basis of which the Tribunal stated the case in this reference, we decline to answer the questions in this reference. The reference is accordingly returned with the questions unanswered.

5. No order as to costs.

