(1986) 09 PAT CK 0027

In the Patna High Court

Case No : Taxation Case No''s. 46 to 51 of 1978

Commissioner of Income Tax APPELLANT

Vs

Smt. Anardei Devi RESPONDENT

Date of Decision : 12-09-1986

Acts Referred:
Income Tax Act, 1961 — Section 256(1)

Citation : (1988) 173 ITR 72

Hon'ble Judges : Uday Sinha, J;Ashwini Kumar Sinha, J

Bench : Division Bench

Advocate : B.P. Rajgarhia and S.K. Sharan, for the Appellant; None, for the Respondent

Judgement

1. These are six references u/s 256(1) of the Income Tax Act, 1961 (hereinafter to be referred to as "the Act"), which relate to the assessment years 1968-69 to 1973-74. The questions referred to us for our opinion are as follows :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held the assessment orders, having been passed by the Income Tax Officer after necessary enquiries in pursuance of the ''scheme to help the new taxpayers in small income groups'' launched by the Government, were not erroneous so as to enable the Commissioner of Income Tax to assume jurisdiction u/s 263(1) of the Income Tax Act, 1961 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held that the Commissioner of Income Tax did not follow the principles of natural justice before passing the impugned order and so his order is not valid ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held that the impugned order of the Commissioner of Income Tax is based upon mere surmises and conjectures and is, therefore, not valid ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held that the Commissioner of Income Tax, acting u/s 263(1) of the

Income Tax Act, 1961, could not interfere with an order of assessment made u/s 143(1) in pursuance of the ''scheme to help new taxpayers in small income groups'' evolved by the Government ?

5. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held that the Commissioner of Income Tax acted in a mechanical manner in setting aside the assessment order for the assessment year 1973-74 and his order for that year is invalid ? and

6. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly cancelled the consolidated order passed by the Commissioner of Income Tax u/s 263(1) of the Income Tax Act, 1961, for the assessment years 1968-69 to 1973-74 ?

2. The facts of these references are exactly identical to those in the case of Commissioner of Income Tax Vs. Pushpa Devi,) except that the assessee is different in these references. The questions falling for consideration are exactly the same.

3. For the reasons given by us in the case of Commissioner of Income Tax Vs. Pushpa Devi, in which the questions referred to us were exactly the same as in these references, all the questions are answered in favour of the Revenue and against the assessee. However, in the special circumstances of the case, there will be no order as to costs.

4. Let a copy of this order be transmitted to the Assistant Registrar, Income Tax Appellate Tribunal, Patna, in terms of Section 260(1) of the Income Tax Act, 1961.

5. The questions referred in these cases u/s 256(1) of the Income Tax Act, 1961, arc similar, if not identical, to the questions referred to this court in Taxation Cases Nos. 93 to 98 of 1978 (Commissioner of Income Tax Vs. Pushpa Devi,) and Taxation Cases Nos. 21 to 23 of 1978 (Commissioner of Income Tax Vs. Smt. Rambha Devi,). Those cases have since been decided. It is pertinent to note here that the decision of this court in Taxation Cases Nos. 93 to 98 of 1978 (Commissioner of Income Tax Vs. Pushpa Devi,) has been followed in a spate of other such applications, perhaps, about two dozen cases if not more.

6. For the reasons given in the judgment of the first batch of cases, namely, Taxation Cases Nos. 93 to 98 of 1978 decided by this court on June 13, 1986 (Commissioner of Income Tax Vs. Pushpa Devi,) which were followed by the judgment passed by this court in the second batch of cases, namely, Taxation Cases Nos. 21 to 23 of 1978 on September 4, 1986 (Commissioner of Income Tax Vs. Smt. Rambha Devi,), we answer the questions in favour of the Revenue and against the assessees. But, on the special facts and in the circumstances of these cases, we make no order as to costs.

7. Let a copy of this order be sent to the Assistant Registrar of the relevant Income Tax Appellate Tribunal u/s 260 of the Income Tax Act, 1961.