(1988) 04 PAT CK 0024

In the Patna High Court

Case No : Taxation Case No''s. 116 to 119 of 1979

Commissioner of Income Tax APPELLANT

Vs

Smt. Krishna Devi RESPONDENT

Date of Decision : 22-04-1988

Acts Referred:
Income Tax Act, 1961 — Section 143, 263

Citation : (1988) 70 CTR 156 : (1989) 175 ITR 591

Hon'ble Judges : Uday Sinha, J;Krishna Ballabh Sinha, J

Bench : Division Bench

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

Judgement

1. These are four references in relation to assessment years 1970-71, 1971-72, 1972-73 and 1973-74. In these references, the following questions have been referred to us for our opinion ;

"1. Whether, on the facts and in the circumstances of the case, the Tribunal has rightly held that 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 the 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, in view of the decision of the Income Tax Appellate Tribunal, Patna, in the case of Smt. Rambha Devi v. ITO (I. T. A. Nos. 1713 to 1715/1974-75),

the Tribunal has rightly held that the Commissioner of Income Tax, acting u/s 263(1) of the Income Tax Act, 1961, could not legally set aside an order of assessment made u/s 143(1) in pursuance of the scheme ''to help the new taxpayers in the 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 so his order for that year is invalid ?

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 1970-71 to 1973-74 ?"

The questions referred to this court are all covered by three decisions of this court in Commissioner of Income Tax Vs. Pushpa Devi, , Commissioner of Income Tax Vs. Smt. Rambha Devi, and the unreported decision of this court in Income Tax Cases Nos. 114 and 115 of 1979, disposed of on April 5, 1988 (Commissioner of Income Tax Vs. Smt. Pushpa Devi,). Identical questions had been referred in those references. For the reasons stated in these cases, all the questions referred to us in these references are thus answered in the negative, in favour of the Revenue and against the asses-see. In the special circumstances of the case, there shall be no order as to costs.

2. Let a copy of this judgment be transmitted to the Assistant Registrar, Income Tax Appellate Tribunal, Patna, in terms of Section 260 of the Income Tax Act, 1961.

