(2004) 09 MP CK 0006

In the Madhya Pradesh High Court

Case No : IT Ref. No. 71 of 1997 & IT Reference No. 71 of 1997 23 September 2004

Commissioner of Income Tax — APPELLANT

Vs

Vippy Solvex Products Ltd. — RESPONDENT

Date of Decision : 23-09-2004

Acts Referred:
Income Tax Act, 1961 — Section 143

Citation : (2005) 143 TAXMAN 363

Hon'ble Judges : Ashok Kumar Tiwari, J;A M. Sapre, J

Bench : Full Bench

Advocate : R.L. Jain, for the Revenue and S.C. Goyal, for the Assessee, for the Appellant;

Judgement

This is an application made by the revenue u/s 256(2) of the Income Tax Act consequent upon the dismissal of their application made u/s 256(1) of the Income Tax Act by the Tribunal vide its order dated 27-5-1997 in R.A. No. 28/IND/97, which in turn arose out of the I.T.A. No. 201/IND./92.

2. Having heard the learned counsel for the parties and having perused the record of the case in our opinion no referable question of law really arises out of the matter proposed by the revenue.

3. The issue, in our opinion is really academic because admittedly regular assessment u/s 143(3) of the Act are already in progress and, therefore, we do not find that any useful purpose will be served in calling for a question which even otherwise does not arise in the matter. Moreover, the issue sought to be raised has also been settled by the Supreme Court in Commissioner of Income Tax Vs. Gujarat Electricity Board, .

4. Under these circumstances and taking into account the law laid down by the Supreme Court in Gujarat Electricity Board''s case (supra) and the fact that regular assessments are already under way, we do not consider it to be a fit case

for calling the question from the Tribunal in exercise of'' our powers conferred u/s 256(2) of the Act for answering the same on merits u/s 256(1) of the Act.

5. The application, thus, fails and is hereby dismissed. No costs.

