(1989) 02 AHC CK 0021

In the Allahabad High Court

Case No : Wealth-tax Application No''s. 311 and 312 of 1987

Commissioner of Wealth Tax APPELLANT

Vs

Gayatri Devi RESPONDENT

Date of Decision : 27-02-1989

Acts Referred:

Citation : (1989) 77 CTR 17 : (1989) 178 ITR 449 : (1990) 48 TAXMAN 199

Hon'ble Judges : R.M. Sahai, J;R.K. Gulati, J

Bench : Division Bench

Judgement

1. These are two applications filed at the instance of the Revenue u/s 27(3) of the Wealth-tax Act, 1957. A common question raised in these applications is whether the Tribunal was justified in cancelling penalty u/s 18(1)(a) of the Wealth-tax Act. In allowing the appeal, the Tribunal followed its earlier order. The question before the Tribunal was whether the assessee had, without sufficient cause, failed to furnish her return within the time allowed and in the manner required by Sub-section (1) of Section 14 of the Wealth-tax Act. The returns filed by the assessee for both the years were late. The return for the assessment year 1970-71 was due on June 30, 1970, while for the year 1971-72 it was due on June 30, 1971, but were filed only on November 3, 1973, and June 30, 1972, respectively. From the order passed by the first appellate authority, it appears that the time for filing the returns for the aforesaid two years was extended in view of the circular issued by the Central Board of Direct Taxes dated February 17, 1972. The first appellate authority allowed the assessee''s appeal against the order of the Wealth-tax Officer imposing penalty in view of the circular issued by the Central Board of Direct Taxes. Another contention of the assessee was that she had filed her return of wealth which was only marginally higher over the exemption limit and the return could not be filed earlier as she thought that she had no taxable wealth for the years in dispute. These facts are evident from the order passed by the first appellate authority. The Revenue took the matter further in appeal before the Income Tax Appellate Tribunal which dismissed both the appeals by a consolidated order following its own earlier order in the

assessee''s own case. The applications u/s 27(1) of the Wealth-tax Act having been dismissed, the Commissioner of Wealth-tax has now come up in these applications before this court for a direction to the Tribunal to refer the case to this court on the common question raised in these applications.

2. We have heard learned counsel for the Revenue.

3. The question whether an assessee had sufficient cause in not furnishing the return in time, in our opinion, is essentially one of fact. All that has been urged before us was that the Tribunal was not right in following its earlier order, since, on facts, the case for these two years was mutually distinguishable. Learned counsel for the Revenue was, however, unable to point out any distinction to substantiate its contention. That apart, the contention of the assessee was that she laboured under the belief that she had no taxable wealth and the returns were filed as, on the valuation of immovable property, it was found that her net wealth was marginally above the wealth-tax exemption limit.

4. In our considered opinion, the order of the Income Tax Appellate Tribunal does not give rise to any question of law. These applications are without any merit and are, accordingly, rejected.

5. There shall be no order as to costs.