(1988) 03 OHC CK 0015

In the Orissa High Court

Case No : S.J.C. No''s. 121 to 125 of 1978

Commissioner of Wealth-tax APPELLANT

Vs

K. Narayan Rao RESPONDENT

Date of Decision : 16-03-1988

Acts Referred:
Wealth Tax Act, 1957 — Section 18(1)

Citation : (1988) 173 ITR 372

Hon'ble Judges : H.L. Agrawal, C.J;S.C. Mohapatra, J

Bench : Division Bench

Advocate : S.C. Ray, for the Appellant; B.K. Mohanty, for the Respondent

Judgement

H.L. Agrawal, C.J.—In all these five cases for five different assessment years, the Tribunal was directed to state a case and make a reference u/s 27(1) of the Wealth-tax Act, 1957 (for short, "the Act "), on the following question of law framed by this court :

" Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the Inspecting Assistant Commissioner had no jurisdiction to impose penalty u/s 18(1)(c) in view of the change of law brought about by the Taxation Laws (Amendment) Act, 1975 ? "

2. Penalty proceedings were started for the assessment years 1968-69 to 1972-73 by the Wealth-tax Officer u/s 18(1)(c) of the Act and the matter was referred to the Inspecting Assistant Commissioner u/s 18(3) who, in his turn, imposed penalties to the tune of Rs. 1,10,000 for each of the five assessment years.

3. In the appeal before the Appellate Tribunal, it was contended on behalf of the assessee, inter alia, that in view of the change brought about by the Taxation Laws (Amendment) Act, 1975, with effect from April 1, 1976, the Inspecting Assistant Commissioner had ceased to be the "competent authority" to impose penalty and, accordingly, the orders of penalty, having been passed in the month

of March, 1977, i.e., after April 1, 1976, were bad in law.

4. The Tribunal, relying on the decision of this court in Commissioner of Income Tax Vs. Dhadi Sahu, , accepted this contention of the assessee and cancelled the penalties. But the Revenue succeeded in getting the statement of case called for on the question of law indicated above.

5. On behalf of the assessee, reliance was again placed on Commissioner of Income Tax Vs. Dhadi Sahu, , where exactly the same question was referred and answered in favour of the assessee. On the basis of that decision which is applicable to this case, the answer to the question must be given in favour of the assessee and it must be held that the Inspecting Assistant Commissioner had ceased to have jurisdiction to pass the orders of penalty.

6. The assessee in the circumstances should also get the costs of these references. Hearing fee is, however, assessed at Rs. 250 only.

S. C. Mohapatra, J.

7. I agree.