(1983) 01 MP CK 0008

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No''s. 48 to 56 of 1981

COMMISSIONER OF WEALTH TAX — APPELLANT

Vs

KALYANMAL KACHARJI. — RESPONDENT

Date of Decision : 10-01-1983

Acts Referred:

Citation : (1983) 35 CTR 418 : (1983) 13 TAXMAN 508

Hon'ble Judges : G. G. Sohani, J

Bench : Division Bench

Judgement

G. G. Sohani, J. - The order in this case shall also dispose of M.C.C. Nos. 49 to 56 all of 981. These are all applications u/s 27(3) of the WT Act, 1957 (hereinafter referred to as the Act).

2. The material facts giving to these application briefly are as follows :

For the asst. yrs. 1967-68 to 1975-76, the assessee had made voluntary disclosure of income and had filed on 31-12-1975, return of total net wealth for the assessment years in question. The WTO initiated proceedings u/s 18(1)(a) of the Act, as there was delay in filing the returns. The assessee contended before the WTO that his case was covered by the immunity provided u/s 15 of the Voluntary Disclosure of Income and Wealth Act, 1975. That contention was rejected by the WTO and penalties were revied on the assessee. The Commissioner (A) held that immunity was available to the assessee under the Voluntary Disclosure Act and in this view of the matter, the orders of penalty passed by the WTO were set aside. On further appeal, the Tribunal held that in the facts and circumstances of the case, levy of penalty was not just and proper. The Tribunal further held that the assessee who had made voluntary disclosure of income under the Voluntary Disclosure Act, was entitled to immunity under the provisions of s. 15(1) of the Voluntary Disclosure Act. In this view of the matter, the Tribunal dismissed the appeal preferred by the department. Aggrieved by the order passed by the Tribunal, the department sought a reference but the applications filed by the department in that behalf were rejected. Hence, the department has filed these applications.

3. Having heard ld. counsel for the parties, we have come to the conclusion that these applications deserve to be rejected. Learned counsel for the department contended that the provisions of s. 15(1) of the Voluntary Disclosure Act were not attracted as the assessee had failed to comply with the provisions of s. 5 of that Act. The Tribunal has, however, found that in the facts and circumstances of the case, the imposition of penalty was not just and proper and that the provisions of the Voluntary Disclosure Act were fully complied with by the assessee. This is a finding of fact. Under the circumstances, no question of law can be said to arise out of the order of the Tribunal.

4. The applications, therefore, fail and are accordingly dismissed. No order as to costs.

