(1996) 10 P&H CK 0056

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No''s. 391 to 396 of 1987

Income Tax Officer — APPELLANT

Vs

Middlex Engineering Co. (P.) Ltd. and Others — RESPONDENT

Date of Decision : 18-10-1996

Acts Referred:
Income Tax Act, 1961 — Section 292A

Citation : (1997) 224 ITR 50

Hon'ble Judges : S.S. Sudhalkar, J

Bench : Single Bench

Advocate : R.P. Sawhney and Mahavir Ahlawat, for the Appellant; None, for the Respondent

Judgement

S.S. Sudhalkar, J.—The points involved in Criminal Revisions Nos. 391, 392, 393, 394, 395 and 396 of 1987 being the same they are disposed of by this common judgment. The respondents were tried in connection with offence u/s 276B of the Income Tax Act, punishable under the Income Tax Act, 1961 (hereinafter referred to as "the Act") and the learned Chief Judicial Magistrate, Jalandhar, having found them guilty convicted them of the said offence and instead of sentencing them he directed them to be released on probation for a period of one year on their, furnishing personal bonds.

2. The contention of the petitioner is that the respondents could not be granted the benefit of probation, The petitioner has relied on Section 292A of the Act. It reads as follows :

"Section 292A. Section 360 of the Code of Criminal Procedure, 1973, and the Probation of Offenders Act, 1958, not to apply. ~ Nothing contained in Section 360 of the Code of Criminal Procedure, 1973 (2 of 1974), or in the Probation of Offenders Act, 1958 (20 of 1958), shall apply to. a person convicted of an offence under this Act, unless that person is under eighteen years of age."

3. It is clear that the learned magistrate has fallen into an error in not

considering the provisions of this Section. The respondent, Ajit Singh, is having two daughters of marriageable age, as observed by the learned Chief Judicial Magistrate in his judgment. The other respondent, D.P. Mishra, is alleged to be the accountant. Therefore, none of them can be under the age of 18 years. Respondent No. 1 is, of course, a company.

4. In view of the above reasons, the order of probation cannot be upheld. The revisions are, therefore, allowed. The judgment of the trial court so far as its grants probation to the respondents is set aside. The case is remanded to the learned Chief Judicial Magistrate, Jalandhar, for passing orders according to law.