(1983) 02 MP CK 0010

In the Madhya Pradesh High Court

Case No : Miscellaneous Civil Case No. 180 of 1981

Raja Vikramaditya Singh	APPELLANT
Vs	
Commissioner of Income Tax	RESPONDENT

Date of Decision : 14-02-1983

Acts Referred:
Income Tax Act, 1961 — Section 256(1), 256(2)

Citation : (1984) 146 ITR 372 : (1983) 14 TAXMAN 509

Hon'ble Judges : R.K. Vijayvargiya, J;G.G.Sohani, J

Bench : Division Bench

Advocate : J.W. Mahajan, for the Appellant; R.C. Mukati, for the Respondent

Judgement

Sohant, J.—This is an application u/s 256(2) of the I.T. Act, 1961, (hereinafter referred to as "the Act").

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

For the assessment year 1971-72, the assessee had to file a return on or before September 30, 1971, but the return was, however, filed on March 22, 1973. The ITO, therefore, initiated penalty proceedings against the assessee u/s 271(1)(a) of the Act. In reply to the show-cause notice, the assessee gave an explanation for the delay in filing the return. The ITO was, however, of the opinion that the assessee had failed to make out reasonable cause for the delay of 17 months in filing the return. The ITO, accordingly, imposed penalty, which was confirmed on appeal, by the AAC, The assessee filed a second appeal before the Tribunal. The Tribunal, after considering the entire material on record, affirmed the finding of the ITO and the AAC that there was no reasonable cause for the delay in filing the return. The Tribunal, however, reduced the amount of penalty in view of the decision of the Tribunal in the quantum appeal. Aggrieved by the order passed by the Tribunal, the assessee sought a reference, but the application filed by the assessee in that behalf was rejected. Hence, the assessee has filed this application praying that the Tribunal should be directed to refer the following question of law to this court for its opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee had without reasonable cause failed to furnish the return in time u/s 139 and thus upholding the levy of penalty u/s 271(1)(a) of the Act ?"

3. Having heard the learned counsel for the parties, we have come to the conclusion that this application deserves to be rejected. The question as to whether the assessee had failed to furnish the return in time without reasonable cause, is a question of fact. The Tribunal has, after taking into consideration, the explanation of the assessee and the material on record, found that the assessee had failed to make out that there was reasonable cause for the delay in filing the return. The finding reached by the Tribunal is based on the material on record. No question of law can, therefore, be said to arise out of the order of the Tribunal.

4. The application is, therefore, rejected. In the circumstances of the case, the parties shall bear their own costs of this application.