(1956) 03 GAU CK 0005

In the Gauhati High Court

Case No : Civil Rule No. 156 of 1954

Sisir Kumar Das Purkayastha APPELLANT

Vs

State of Assam and Others RESPONDENT

Date of Decision : 14-03-1956

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : AIR 1956 Guw 185 : (1957) 8 STC 416

Hon'ble Judges : Sarjoo Prasad, C.J;Ram Labhaya, J

Bench : Division Bench

Advocate : N.M. Dam, for the Appellant; D.N. Medhi, Senior Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Sarjoo Prosad, C.J.—In this application under Articles 226 and 227 of the Constitution the petitioner prays that we should quash the orders of assessment made by the Sales Tax Authorities on the ground that the assessments were ultra vires and not warranted by the provisions of the Sales Tax Act. Reliance has been placed on the authority of the decision of this Court in Civil Rule No. 98 of 1953, dated 19th March, 1954. It may be pointed out that the assesssment in this case was completed on 22nd December, 1952. The petitioner never preferred an appeal against the order of assessment, nor did he go up in revision. For about two years he allowed the matter to rest; then after the decision of this Court passed in the aforesaid case, he filed a petition before the Commissioner of Sales Tax to interfere with the order of assessment u/s 31(1) of the Sales Tax Act. The Officer refused to interfere with the assessment order which had already become final as early as on 22nd December, 1952, and some of the amounts also had been realised from the petitioner. In view of the great delay in presenting this application against an order which has long been final, we do not feel called upon to interfere with the assessments.

2. In my judgment in Civil Rule No. 132 of 1952 dated 3oth January, 1956, I

pointed out that where the assessment has been completed and in some cases even the amount had been realised, this Court would not be inclined to interfere under Article 226 of the Constitution ; because that would mean reopening proceedings which were past and closed and in which the assessees had submitted to the order and taken no further steps to safeguard their rights. The application is, therefore, dismissed. In the circumstances we make no order for costs.

Ram Labhaya, J.

Without expressing any opinion on the merits I agree to the order passed by my Lord the Chief Justice.

