(1980) 07 SC CK 0034

In the Supreme Court Of India

Case No : Civil Appeal No. 2589 Of 1972

Tax Recovery Officer and Another — APPELLANT

Vs

Kathmal Parekh Kathagudan — RESPONDENT

Date of Decision : 25-07-1980

Acts Referred:

Citation : (1982) 3 SCC 180

Hon'ble Judges : P. N. Bhagwati, J;E. S. Venkataramiah, J;A. N. Sen, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

P.N. BHAGWATI, J.-This is an appeal preferred by the Tax Recovery Officer against a judgment of the High Court of the Andhra Pradesh on the strength of a certificate granted by the High Court under Article 133(1)(a) of the Constitution. The question which arose before the High Court was whether the respondent who was partner in the firm of Kathmal Parekh & Co. was liable to be arrested and detained in civil prison for non-payment of the amount of tax assessed on the firm as an unregistered firm under Tax Recovery Certificate issued in the name of the firm as the assessee in default. The High Court took the view that the Tax Recovery certificate issued in the name of the firm did not entitle the Tax Recovery Officer to proceed against the respondent for his arrest and detention as the defaulter named in the certificate was the firm and not the respondent. But while allowing the writ petition, the High Court observed that it was open to the Income Tax Officer to amend the certificate already issued by him by naming the individual partner also as a defaulter. In view of this observation made by the High Court, the question as to whether the respondent can be proceeded against for his arrest and detention under the Tax Recovery Certificate issued in the name of the firm, is purely academic and we do not see any reason why we should enter upon a consideration of this question. We, therefore, dismiss the appeal with no order as to costs.