(2003) 12 P&H CK 0086

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 867 of 1986

Thakur Singh — APPELLANT

Vs

Commissioner of Wealth-tax and Another — RESPONDENT

Date of Decision : 10-12-2003

Acts Referred:
Wealth Tax Act, 1957 — Section 14(2), 18(1), 18B

Citation : (2004) 268 ITR 271

Hon'ble Judges : Adarsh Kumar Goel, J

Bench : Single Bench

Advocate : Suvir Sehgal, for the Appellant; N.L. Sharda, for the Respondent

Judgement

Adarsh Kumar Goel, J.—This writ petition under Article 226 of the Constitution seeks quashing of order dated January 29, 1985, passed by respondent No. 1 being annexure P.13, dismissing the application of the petitioner dated February 1, 1983, seeking waiver of penalty u/s 18(1)(a) of the Wealth-tax Act, 1957 (for short, "the Act"), for the assessment years 1971-72 to 1974-75 and another petition in respect of the assessment year 1975-76.

2. The case of the petitioner is that he filed wealth-tax returns for the assessment years 1971-72 to 1974-75 on June 28, 1975, and for the assessment year 1975-76 on October 26, 1976. The returns were filed beyond the prescribed date but before receiving notice u/s 14(2) of the Act. Assessments were completed and thereafter proceedings for levying penalty were initiated u/s 18(1)(a) of the Act and penalty was levied for late filing of the returns. Figures of the tax chargeable and penalty imposed for the respective years are as under :

Assessment Penalty Wealth-tax year imposed (Rs.) chargeable (Rs.) 1971-72 9,913 431 1972-73 10,727 1,631 1973-74 8,129 1,739 1974-75 4,235 1,847 1975-76 6,790 1,970

The petitioner filed an application u/s 18B of the Act for waiver of the penalty giving reasons for the delay in submitting the returns. The application was dismissed holding that the delay in filing of the returns was on account of negligence of the assessee and no extension of time was sought for delaying the same.

Learned counsel for the petitioner submitted that though levy of penalty may be justified when there was unexplained delay in filing the return but having regard of the fact that the returns were filed voluntarily without notice u/s 14(2) of the Act having been issued and full disclosure of net wealth was made, the amount of penalty should be reasonable and proportionate to the tax assessed. It was submitted that tax assessed was about Rs. 7,600 while the penalty levied was about Rs. 40,000. Learned counsel for the petitioner submits that penalty should be reduced by 50 per cent. He relied on the decision of the apex court in Prithipal Singh (Dead) through Lrs. Vs. Commissioner of Wealth Tax, .

Learned counsel for the respondents is unable to show any reason as to why the amount of penalty should not be reduced in view of the decision of the apex court in Prithipal Singh (Dead) through Lrs. Vs. Commissioner of Wealth Tax, . Having regard to the quantum of tax assessed and the fact that the petitioner filed returns voluntarily disclosing his wealth, though belatedly, penalty imposed is reduced by 50 per cent.

The writ petition is disposed of.

