

A. Keshava Bhat Vs. Ito and ors.

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Court : Karnataka

Decided On : Jun-14-1999

Reported in : (2001)166CTR(Kar)420

Appeal No. : Writ Petn. No. 33886 of 1993 14 June 1999

Appellant : A. Keshava Bhat

Respondent : ito and ors.

Advocate for Pet/Ap. : Ashoka Haranahalli, for the Assessee M.V. Seshachala, for the Revenue

Judgement :
ORDER

V.K. Singhal, J.

The order of the Commissioner, dated 18-3-1992, has been challenged in this writ petition. A penalty of Rs. 2,000 was levied on the petitioner on account of non-maintenance of books of accounts as it is stipulated under section 44AA for the assessment year 1991-92. On appeal, it was found that the gross receipt from the profession exceeds Rs. 60,000 in one of the preceding three years and books of accounts have to maintained. The contention that the petitioner was not in a position to expend money for appointment of an accountant or that there was a reasonable cause which was not relied. The Commissioner upheld the penalty as

the mere fact of filing the returns voluntarily was held not absolving the petitioner from statutory obligation.

2. Learned counsel for the petitioner points out that in accordance with section 273B of the Act, the penalty cannot be levied if the petitioner is able to prove that there was reasonable cause for the said failure. Section 271A of the Act provides a minimum penalty of Rs. 2,000 on failure to keep and maintaining any books of accounts and other documents required by section 44AA. Rule 6F(1)(a) provides that, if his total gross receipts in the profession do not exceed sixty thousand rupees in any one of the three years immediately preceding the previous year, or, where the profession has been newly set up in the previous year, his total gross receipts in the profession for that year are not likely to exceed the said amount, the books of account need not be maintained. This exclusion is applicable, if, in the immediately preceding 3 years in any of the year gross receipt does not exceed Rs. 60,000. The gross receipt of the preceding year, of the petitioner, in the year 1989-90 was less than Rs. 60,000 while in the years 1990-91 and 1991-92 it was more than Rs. 60,000. Since the contemplation of rule was that it should not be less than Rs. 60,000 in all the three years is not satisfied, the petitioner was under obligation to maintain the books of accounts. The reasonable cause which was raised before the assessing authority, was that, he could not afford to maintain an accountant. This was not considered proper. There was no other reasonable cause and as such, the order levying the penalty cannot be interrupted.

No ground for interference is made out.

Writ petition is dismissed accordingly.