

In Re: Suraj Bhan Ugarsen

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Court : Allahabad

Decided On : Mar-04-1932

Reported in : AIR1932All642

Appellant : In Re: Suraj Bhan Ugarsen

Judgement :

Bennet, J.

1. These are two references by the Commissioner of Income-tax at the instance of a Hindu joint family of whom the manager is one Surajbhan Uggarsen. In one case the assessment is for the years 1930-1931 and in the other case for the years 1929-1930 under Section 34. In each case there was non-compliance with the orders of the Income-tax Officer. In regard to the earlier year the Income-tax Officer issued a notice under Section 22(2) read with Section 34 requiring a return of in- come for the year 1929-1930. The assessee submitted a return of Rs. 1,500 as an estimated income from interest and stated that an approximate amount was given because the assessee had kept no accounts previous to 1st April 1929. The Income-tax Officer held that this was not a valid return and accordingly he made a best judgment assessment under Section 23(4). An appeal was filed by the assessee and the Assistant Commissioner of Income-tax considered the reasons which had led the Income-tax Officer to assess under Section 23(4) and he held that those reasons were sufficient and therefore no appeal lay under Section 31 in accordance with the proviso to Section 30. As the Assistant Commissioner of

Income-tax has considered whether the assessment was properly made under Section 23(4) and has held that the appeal lies therefore there was no order under Section 31. As there was no order under Section 31 no reference lies to this Court in accordance with the provisions of Section 66, Sub-section (2).

2. The case for the assessment in regard to the year 1930-1931 is similar. A notice was issued under Section 22(4) requiring the assessee to submit cash books and ledgers and original bonds and promissory notes and again a notice was issued under the same section requiring him to submit cash books and ledgers in regard to petrol and kerosene oil agency in Dehra Dun, cash books and ledgers in regard to a cloth shop in Dehra Dun and cash books and ledgers for money lending and grain business at another place. The assessee failed to produce any books in regard to the Dehra Dun business on grounds that they had been previously shown to the Income-tax Officer, Dehra Dun and he alleged that he had no account books before the years 1927-1928 and 1928-1929 for this money lending business. The Income-tax Officer held on certain evidence that there must have been account books for the money lending business for the years not produced and that the reasons for not producing the books in regard to the Dehra Dun business were insufficient. An assessment was therefore made under Section 23, Sub-section (4). An appeal was filed by the assessee. The learned Assistant Commissioner considered the grounds which had led the Income-tax Officer to consider that the assessment should be made under Section 23(4) and held that those were good grounds. Accordingly no appeal lay under Section 31. As already stated when no appeal lies under Section 31 no reference lies under Section 66(2).

3. Our decision therefore in both these cases is that no reference lies to this Court and accordingly we refuse these references with costs. We allow the fees to the Government Advocate of Rs. 150 conditional on his filing a certificate of payment within the period prescribed by the Rules of this Court. The costs of the references will be paid by the assessee.