Cit Vs. S.K. Gupta and Co.

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SooperKanoon Citation : sooperkanoon.com/494900

Court : Allahabad

Decided On : Oct-12-2004

Reported in : [2006]146TAXMAN399(All)

Appeal No. : IT Reference No. 115 of 1989 12 October 2004

Appellant : Cit

Respondent : S.K. Gupta and Co.

Advocate for Pet/Ap. : A.N. Mahajan *for the Assessee*

Judgement :

1. The affidavit of service filed today may be placed on record:

This is an application under section 256(2) of the Income Tax Act.

2. The present application has been filed on the basis of the following questions of law arising out of the order of Tribunal:

'1. Whether on the facts and in the circumstances of the case, learned Income Tax Appellate Tribunal was legally justified in quashing the assessment order dated 27-3-1991 in entirety instead of deciding first the issue of status which is pending before it in separate appeal?

2. Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally justified in quashing the assessment order dated 27-3-1991 made in pursuance of a legal and valid notices issued under sections 139 and 143(2) of the Income Tax Act, 1961?

3. Whether on the facts and in the circumstances of the case, learned Income Tax Appellate Tribunal was justified in quashing the assessment order dated 27-3-1991 and in not deciding the appeal filed by the department against the order of learned CIT (Appeals), dated 18-12-1991 in Appeal No. 138/91-92 in quantum addition?'

3. It has been stated by Shri A.N. Mahajan, the learned Standing counsel for the revenue that in respect of the earlier assessment year this court has allowed the application filed under section 256(2) of the Act being Income-tax Application No. (43) of 1999 decided on 29th August, 2000.

4. Respectfully following, the aforesaid decision the present application is also allowed and the Income Tax Appellate Tribunal, Delhi is directed to draw up a statement of case and refer the aforesaid three questions of law for the opinion to this Court.

The application is allowed.