

Ram Vilas Mani Vs. Cit

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Court : Allahabad

Decided On : Aug-16-2004

Reported in : [2005]142TAXMAN204(All)

Appeal No. : IT Appeal No. 5 of 2004 16 August 2004

Appellant : Ram Vilas Mani

Respondent : Cit

Advocate for Pet/Ap. : Anil Kumar Pandey, *for the Assessee A.N. Mahajan, for the Revenue.*

Judgement :

We have heard Shri Anil Kumar Pandey, learned counsel for the appellant and Shri A.N. Mahajan, learned standing counsel for the revenue.

2. We are satisfied that even though the Income Tax Appeal does not raise any substantial question of law which may be said to have arisen out of the order of the Income Tax Appellate Tribunal, Allahabad dated 28-7-2003, but we are of the considered opinion that by the impugned order, miscarriage of justice has resulted for the following reasons

Adjournment application moved by the appellant had been rejected on the ground that there are more than one counsels. The view taken may be correct, but taking into consideration that the Tribunal had earlier directed the Departmental

Representative to produce the file of the CIT(A) for decision of the case before it and the Departmental Representative, however, did not produce the file of the CIT(A) and adverse view against the appellant has been taken on the ground that the appeal was filed by different person and signatures was forged on the memo of appeal. As the file of CIT(A) was not before the Tribunal, the Tribunal had no material whatsoever, to arrive at such a conclusion.

3. In view of the foregoing discussions, we are inclined to interfere by exercising our powers conferred under article 227 of the Constitution of India and, accordingly, we set aside the impugned order of the Tribunal and direct the Tribunal to decide the matter afresh after giving an opportunity to the appellant after ensuring that the file of the CIT of relevant assessment year in question produced before it.

The appeal is disposed of.

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