Cit Vs. R.K. Jain

Cit Vs. R.K. Jain

SooperKanoon Citation : sooperkanoon.com/495684

Court : Allahabad

Decided On : Mar-30-2005

Reported in : [2006]155TAXMAN142(All)

Appeal No. : ITR No. 184 of 1993 30 March, 2005

Appellant : Cit

Respondent : R.K. Jain

Advocate for Pet/Ap. : R.K. Upadhyaya, *for the Applicant*

Judgement :
ORDER

1. The Income Tax Appellate Tribunal, New Delhi, has referred the following question of law under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for opinion to this Court:

'Whether, on the facts and in the circumstances of the case, the ITAT was legally justified in holding that the assessment computed under section 143(3)/148 for the first time is not a regular assessment within meaning of section 2(40) of the Act and, therefore, no interest under section 139(8) and under section 217 is chargeable ?'

2. The dispute relates to the assessment years 1978-79 to 1980-81.

3. Heard Sri R.K. Upadhya, learned standing counsel for the revenue. No body appears on behalf of the respondent-assessee.

4. In view of the decision of Supreme Court in the case of K. Govindan & Sons v. CIT (2001) 247 ITR 192, the assessment made for the first time under section 143(3)/148 of the Act is to be treated as regular assessment within the meaning of section 139(8) of the Act. Similar would be the position with regard to chargeability of the interest under section 217 of the Act. The Hon'ble Supreme Court has held that Explanation H to section 139(8) inserted with effect from 1-4-1985 is clarificatory in nature and applies to all earlier assessments also.

5. Respectfully following the aforesaid decision, we answer the above question referred to us in the negative, i.e., in favour of the revenue and against the assessee. There shall be no order as to costs.