Rakesh Kumar Agarwal and Others Vs. Director-general of Income-tax and Others

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Court : Delhi

Decided On : Nov-23-1994

Reported in : [1996]221ITR818(Delhi)

Judge : D.K. Jain and; K. Shivashankar Bhat, JJ.

Acts : Income Tax Act, 1961 - Sections 28

Appeal No. : Civil Writ Petition No. 5106 of 1993

Appellant : Rakesh Kumar Agarwal and Others

Respondent : Director-general of Income-tax and Others

Advocate for Pet/Ap. : O.S. Bajpai, Adv; K.M.L. Majele, Adv; Deokinandan, Adv

Judgement :

1. On November 10, 1994, after hearing the case for some time learned counsel for the Revenue, Mr. Rajendra, stated that the Department offers to return the books and the jewellery subject to the Department making copies of the books. The matter was adjourned to toady. Today learned counsel states that the copies have been made but the petitioner has not been co-operating by signing the copies and the petitioner should be directed to sign the copies.

2. We do not think so. We cannot compel the petitioner to sign the copies. This is a case where there is a considerable delay in retaining the books without authority of law and, thereforee, as per the law declared by the Supreme Court, the Department should have returned the books and we should have directed the return of the books. Since the Department has thought fit to make copies, it is for the Department to get them authenticated in any manner known to law. We cannot direct the petitioner to sign the copies. No doubt in a few cases as disclosed from the decision in Khandani Shafakhana v. Union of India : [1989]175ITR408(Delhi) this court had directed the petitioner therein to attest the copies that cannot be taken as a precedent. There is no such (law as to) direct the petitioner to attest the copies. Whether such a direction can be issued or not depends upon the circumstances of each case.

3. Having regard to the undertaking given to this court on November 10, 1994, we direct the Revenue to return the books and jewellery within ten days from today.

4. The other question that survives for consideration having regard to the above order is whether the petitioner should be compensated. Mr. Bajpai contends that the petitioner has been deprived of the property for a considerable number of years and thereforee the Revenue should compensate the petitioner.

5. It is open to the petitioner to agitate for compensation elsewhere. We cannot do anything in this regard. However, since the petitioner has been compelled to come to the court for seeking the relief and the matter has been adjourned from time to time, we direct the respondent to pay Rs. 5,000 as costs to the petitioner. The petition is disposed of accordingly.