Cit Vs. British Airways

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SooperKanoon Citation : sooperkanoon.com/707825

Court : Delhi

Decided On : Aug-24-2003

Reported in : [2004]141TAXMAN613(Delhi)

Appeal No. : IT Appeal Nos. 272, 273, 280, 282, 302 to 304, 320, 342 & 343 of 2003 24 August 2003

Appellant : Cit

Respondent : British Airways

Advocate for Pet/Ap. : R.D. Jolly &; S.C. Sharma, for the Revenu; Satish Khosla, for the assesse

Judgement :

B.C. Patel, CJ.

Admit.

2. At the request of the learned counsels for the parties, we are taking up these matters for final hearing and disposal.

3. The common question in these appeals is :

Whether the Income Tax Appellate Tribunal was justified in dismissing the appeals in liming only because the grounds were not mentioned in Memoranda of Appeal ?

4. These appeals have been filed by the revenue as the Tribunal dismissed their appeals in liming as the grounds were not mentioned in the memoranda of appeal in Form No. 36. On a similar question, the Tribunal (Chandigarh) earlier disposed of the matter and rejected the appeal in liming against which the appeal was preferred before the Punjab and Haryana High Court in the case of CIT v. V.K. Sood Engineers & Contractors (P) Ltd. . The court, after examining the matter and the applicable rules in detail, allowed the appeal, set aside the order made by the Tribunal and remanded the matter to the Tribunal for disposal on merits. In our view identical questions arise in the present appeals as well. The counsel for the respondents, after considering the decision in the case of V.K. Sood Engineers & Contractors (P) Ltd. (supra) was not in position to point out as to why the present appeals are required to be dealt with differently. In a matter like this, the Tribunal, instead of dismissing the appeals in liming ought to have rejected the appeals under rule 12 of Appellate Tribunal Rules, 1963, or ought to have returned the same for being amended within such time as it may have allowed.

5. In view of what is stated hereinabove, the question is answered in the negative and these appeals are allowed. The impugned order is set aside, the appeals before Tribunal are restored and the Tribunal is directed to dispose of the appeals on merits. It is also directed that if the Commissioner has not filed the grounds of appeal so far, he shall file the same within a period of four weeks from today.

Question answered in negative. Appeals allowed.