Cit Vs. G.S. Dugal

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SooperKanoon Citation : sooperkanoon.com/707889

Court : Delhi

Decided On : Jul-22-2004

Reported in : [2005]142TAXMAN91(Delhi)

Appeal No. : IT Ref. No. 402 of 1983 22 July 2004

Appellant : Cit

Respondent : G.S. Dugal

Advocate for Pet/Ap. : R.D. Jolly &; S.C. Sharma, for the Revenue

Judgement :

B.C. Patel, CJ.

At the instance of the revenue, the following two questions are referred to this court for determination :

'1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the advance tax paid by cheque dated 23-3-1976, which was encased on 5-4-1976 relates back to the date of receipt of the cheque by the Income Tax Officer and has to be treated as advance tax or for purpose of section 139(8) ?

2. If the answer to question No. 1, is in the negative, whether the order of the Inspecting Assistant Commissioner was erroneous insofar as it was prejudicial to

the interest of the revenue and, thereforee, the Commissioner had jurisdiction to pass the impugned order ?'

2. It is fairly stated by learned counsel for the revenue that question No. 1 is covered by the decision of Punjab and Haryana High Court in the case of Oswal Woollen Mills Ltd. v. CIT and accordingly it is required to be decided against the revenue.

3. So far as question No. 2 is concerned, it is dependent on the answer that may be given to question No. 1. Since we have answered question No. 1.