Cit Vs. Mayar India Ltd.

Cit Vs. Mayar India Ltd.

SooperKanoon Citation : sooperkanoon.com/707896

Court : Delhi

Decided On : Nov-01-2004

Reported in : [2005]142TAXMAN230(Delhi)

Appeal No. : IT Appeal No. 632 of 2004 1 November 2004

Appellant : Cit

Respondent : Mayar India Ltd.

Advocate for Pet/Ap. : Sanjiv Khanna, for the Revenue

Judgement :

B.C. Patel, C.J.

Against concurrent decisions, the present appeal under section 260A of the Income Tax Act, 1961 is preferred by the revenue. The decision in the case of CIT v. Ram Commercial Enterprises Ltd. : [2000]246ITR568(Delhi) and other decisions have been considered by the Tribunal. This court made the position of law very clear as under :

'A bare reading of the provisions of section 271 and the law laid down by the Supreme Court makes it clear that it is the assessing authority which has to form its own opinion and record its satisfaction before initiating the penalty proceedings. Merely because the penalty proceedings have been initiated, it cannot be assumed that such a satisfaction was arrived at in the absence of the same being spelt out by the order of the assessing authrity. Even at the risk of repetition we would like to state that the assessment order does not record the satisfaction as warranted by section 271 for initiating the penalty proceedings.' (p. 571)

2. In view of the aforesaid, the appeal is required to be dismissed as no substantial question of law arises. Ordered accordingly.