Cit Vs. Inchcape India (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/710693

Court : Delhi

Decided On : Aug-20-2002

Reported in : [2002]124TAXMAN744(Delhi)

Appeal No. : IT Appeal No. 46 of 2002 20 August 2002

Appellant : Cit

Respondent : inchcape India (P) Ltd.

Advocate for Pet/Ap. : R.D. Jolly,;for the Revenue; P.V. Kapur and; Ms. Anuradha D

Judgement :
ORDER

This appeal under section 260A of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') is directed against the order, dated 28-5-2001, passed by the Tribunal, Delhi Bench 'A', Delhi in IT Appeal No. 4015 (Delhi) of 1999, pertaining to the assessment year 1996-97.

2. By the impugned order the Tribunal has deleted the interest levied under section 234B of the Act, on the ground that before levying the said interest, there was no application of mind on the part of the assessing officer, inasmuch as, while completing assessment he had not made any order for charging the interest. While holding so, the Tribunal has relied on the judgments of the Patna High Court in Ranchi Club Ltd. v. CIT : [1996]217ITR72(Patna) and Uday Mistanna Bhandar &

Complex v. CIT : [1996]222ITR44(Patna) , wherein it was held that notice of demand claiming interest can be issued only when there is order in the assessment order levying interest.

3. In view of the fact that both the said decisions have since been affirmed by the Supreme Court in CIT v. Ranchi Club Ltd. : [2001]247ITR209(SC) no substantial question of law survives for our consideration. Admittedly in the present case, there was no order for charging of interest under section 234B of the Act in the assessment order.

4. It may also be noted that a Full Bench of the Patna High Court in Smt. Tej Kumari v. CIT (2001) 247 ITR 210 , relying on decisions of the Apex Court in Ranchi Club Ltd.'s case (supra), has reiterated the aforesaid view expressed in Uday Mistanna Bhandar & Complex's case (supra). It has been held that in the absence of any specific order of the assessing authority, interest could not be charged and recovered from the assessed.

5. The appeal is, accordingly, dismissed.