Benson Industries Vs. Itat

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SooperKanoon Citation : sooperkanoon.com/710699

Court : Delhi

Decided On : Aug-01-2002

Reported in : [2002]124TAXMAN748(Delhi)

Appeal No. : Civil Writ No. 257 of 1978 1 August 2002

Appellant : Benson Industries

Respondent : itat

Advocate for Pet/Ap. : Ajay Jha, for the assesse

Judgement :

The petitioner has filed this writ petition seeking a writ of certiorari for quashing the impugned order dated 11-3-1977, passed by the Tribunal, 'A' Bench, under section 256(1) of the Income Tax Act (hereinafter referred to as 'the Act').

2. The Tribunal by the impugned order declined to draw up a statement of case and referred under-mentioned questions as questions of law :

1. Whether, on the facts and in the circumstances of the case, the Tribunal is legally right in estimating the income of the assessed at Rs. 20,000 ?

2. Whether, on the facts and in the circumstances of the case, the estimate of income of the assessed at Rs. 20,000 by the Tribunal is correct ?

3. The Tribunal was of the view that no question of law arises in the above two questions. The ex parte assessment made, which had been confirmed by the Appellate Assistant Commissioner, was reduced by the Tribunal in its wisdom and estimate on consideration of all the circumstances. None is present on behalf of the petitioner. However, on perusal of the grounds set out, it appears that one of the grounds urged is that as the Tribunal failed to decide the reference within 120 days and, thereforee, the Tribunal is deemed to have accepted the reference.

4. Mr. Jha raises a preliminary objection as to the maintainability of the petition, stating that the petitioner has failed to avail of the statutory remedy under section 256(2). The conclusion of the Tribunal that there was no question of law arising is correct and cannot be faulted with. There is also no deeming provision on the basis of which the petitioner can urge that there was a deemed acceptance of the reference on the failure of the Tribunal to draw up the reference within a period of 120 days. The petitioner has also failed to avail of the statutory remedy.

5. The writ petition has no merit and is dismissed.