

Ashok Kumar Karola Vs. Union of India

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Court : Rajasthan

Decided On : Jan-03-2003

Reported in : [2003]131TAXMAN821(Raj)

Appeal No. : D.B. IT Appeal No. 77 of 2000 3 January 2003

Appellant : Ashok Kumar Karola

Respondent : Union of India

Advocate for Pet/Ap. : A. Kasliwal, *for the Assessee* R.B. Mathur, *for the Revenue*

Judgement :

ORDER

Heard learned counsel for the parties.

2. To cut short, Mr. Mathur, learned counsel for the revenue submits that the matter has to be referred back to the assessing officer for following the correct procedure before making the assessment. The Tribunal has found that the notice issued under section 143(2) of the Income Tax Act is bad in law as the income shown by the assessee in the return was below the taxable income. Therefore, the return should be treated as non est and the Tribunal has ultimately directed for fresh assessment after following the due process of law, i.e., the correct procedure for assessment in search case specially when the assessee has shown the income below taxable rates.

3. Mr. Kasliwal, learned counsel appearing for the assessee submits that he is not seriously agitating the proposal given by Mr. Mathur but the decision of the Allahabad High Court should not be followed in view of the latest decision of their Lordships in the case of CIT v. Piara Singh : [1980]124ITR40(SC) .

Considering the submissions, we do not find any infirmity so far as the matter is to be remitted back to the assessing officer. However, the assessing officer is directed to follow the correct procedure for assessment of income-tax in search case. We made it clear that the assessing officer should complete the assessment in accordance with law taking into account all the decisions of their Lordships on the issue including the decision in the case of Piara Singh (supra).

4. With the above directions, the appeal stands disposed of.

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