

P. Ramanathan Vs. Ito

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Court : Chennai

Decided On : Nov-17-2000

Reported in : (2001)170CTR(Mad)245

Appeal No. : Writ Petn. Nos. 5349 to 5351 of 1999 & Writ Misc. Petn. Nos. 7826 to 7831 of 1999 17 November 20

Appellant : P. Ramanathan

Respondent : ito

Advocate for Pet/Ap. : V. Balachandran, *for the Assessee* Mrs. Chitra Venkatraman, *for the Revenue*

Judgement :

ORDER

R. Jayasimha Babu, J.

The submission of the petitioner is that notice having been issued as provided for in rule 119(3), the interest under section 220(2) cannot be taken note of for the purpose of determination of the amount payable by the petitioner under the Samadhan Scheme. That rule was in force during the assessment years in question namely, 1971-72 to 1973-74. The Samadhan Scheme provides opportunity to the assessee to pay all the dues, which had remained unpaid by reason of pending litigation. There is no compulsion on the assessee to avail the

benefit of the scheme. When the matters are being settled finally by extending the concession, all the amounts payable by the assessee are required to be taken into account while determining the extent of concession to be given. The scheme is meant to put a final end to the pending litigations. That cannot be done if, the contentions like one raised are allowed to be raised. The fact that certificate had not been issued is not of any consequence when it is undisputed that the tax had not been paid and that under the provisions of the Act. Such non-payment carries with it the further liability for payment of interest on the amount of unpaid tax. All that rule 119 provides for is the quantification of the amount which is a mere matter of arithmetic and the specification of the same, in the recovery certificate, to be issued by the Income Tax Officer. The fact that quantification is done under the Samadhan Scheme makes no difference so far as the liability of the assessee to pay the interest on the unpaid tax is concerned.

2. In the case of *Rajam Pictures Circuit & Ors. v. CIT & Ors.* : [2000]241ITR735(Mad) it was held that levy of interest under section 220(2) of the Income Tax Act is statutory and that no separate order is required. It is also held that settlement of account payable under section 88 of the Kar Vivad Samadhan Scheme would also be with reference to interest. Though, rule 119 was not considered in that case, the conclusion drawn therein would still be valid even after consideration of the rule 119. The rule is merely an aid to the statutory provision and is not meant to cut down the scope of the provision or the extent of its applicability.

3. The writ petitions are, therefore, dismissed. At the request of the counsel, four weeks time is granted to the petitioner to pay the amount. Consequently, W.M.Ps are also dismissed.