Cit Vs. G. Venkatesan

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SooperKanoon Citation : sooperkanoon.com/833346

Court : Chennai

Decided On : Jan-20-2003

Reported in : [2003]131TAXMAN516(Mad)

Appeal No. : W.A. No. 2283 of 2000 C.M.P. Nos. 19752 of 2000, 6462 & 6463 of 2001 20 January 2003

Appellant : Cit

Respondent : G. Venkatesan

Advocate for Pet/Ap. : Ravikumar, *for the Revenue* P. Chandrasekaran, *for the Assessee*

Judgement :

N.V. Balasubramaniam, J.

This writ appeal is preferred against the judgment of the learned Single Judge, dated 30-10-2000 in W.P. No. 8686 of 2000.

2. The respondent herein had made a voluntary disclosure of his income under the Voluntary Disclosure of Income Scheme, 1997, but did not pay the requisite tax and interest within the stipulated time but paid the tax after the due date for payment, with a delay of fifteen days. The Commissioner Thiruchirappalli refused to issue certificate under section 65 of the Voluntary Disclosure of Income Scheme

in respect of the tax paid by the respondent. Hence, the respondent filed the writ petition to accept the declaration and the issue the necessary certificate under the said scheme. The learned Single Judge, following a decision in the case of Prahalatha Babu v. CIT (1999) 111 CTC 369, held that the assessee was entitled for the benefit of the issuance of the certificate since the revenue had received a portion of the tax amount and also the statement by way of disclosure and allowed the writ petition and directed the appellant herein to issue the necessary certificate. On the basis of that direction, the appellant herein has issued the certificate under section 68(2) of the Finance Act, on 29-8-2002.

3. Heard Mr. T. Ravikumar, senior standing counsel for the revenue and Mr. P. Chandrasekaran for the assessee.

4. The Apex Court, in the case of Hemalatha Gargya v. CIT , considered the Voluntary Disclosure Income Scheme and held that the courts have no power to act beyond the terms of the statutory scheme under which benefits have been granted to the assessee and extend the time prescribed under the scheme for the payment of tax, on considerations of equity to get the benefit of the scheme. In view of the said decision of the Apex Court the judgment of the learned Single Judge holding that the respondent herein is entitled for the extension of time and issuance of the certificate is not legally sustainable and it is accordingly set aside. Consequently, the certificate issued by the Commissioner on 29-8-2002 shall also stand cancelled. The appeal is accordingly allowed. But, in the circumstances of the case, there will be no order as to costs. The C.M.Ps. are closed.