

Chandra Bhan Gosain

Vs

State of Orissa, and Others

Civil Miscellaneous Petition No. 1398 of 1962

(S. K. Das, N. Rajgopala Ayyengar, A. K. Sarkar JJ)

05.04.1963

ORDER

SARKAR J. -

This is an appeal against the order of the Deputy Registrar directing the present case to be registered as nine appeals and requiring the appellant to pay nine sets of court-fees. The Deputy Registrar had relied on two cases of this court, namely, Lajwanti Sial's case (Petition for Special Leave No. 673 of 1959) and Kishinchand Chellaram's case. (Civil Appeals Nos. 462 to 465 of 1960). We do not think that these precedents cover the present case.

In Lajwanti's case, there were a number of applications under section 66(2) of the Income-tax Act for reference of the same question. There were in fact a number of separate references but they were dealt with by one judgment from which the appeal to this court arose. That was really a case of five appeals for the common judgment must be taken to have been delivered in each of the different reference cases.

Kishinchand Chellaram's case [[1962] 46 I. T. R. 640 (S.C.)] is also not helpful, because there four applications by four different assesseees had been made for reference of three identical questions arising in each assessment case under section 66(1) of the Income-tax Act. Though it appears that there was one order of reference to the High Court and the High Court treated the case as a single case of reference, it could be said that there were in fact a number of references.

The present case however originated out of one petition under article 226 of the Constitution challenging the validity of various assessment orders. Obviously here, there was only one proceeding. It could not be said that there were as many proceedings as there were assessment orders for the petitioner had by a single petition challenged them all together. When an appeal is taken to this court from the judgment of the High Court in such a petition, it is impossible to contend that there are more appeals than one. Therefore, the appellant before us is liable only to pay one set of court-fee and other charges as in a single appeal. Action may be taken accordingly by the office, if necessary, by refunding the excess charges made.

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