

Pravara Sahakari Sakhar Karkhana Ltd.

Vs

Commissioner of Income-Tax, Poona

Civil Appeals Nos. 181 to 183 of 1973

(K.S. Hegde, H.R. Khanna JJ)

16.04.1973

JUDGMENT

HEGDE, J. -

1. These appeals by special leave are directed against the order made by the High Court of Bombay in an application under section 66(2) of the Indian Income-tax Act, 1922, calling upon the Tribunal to submit certain questions of law said to arise from the order of the Tribunal. When the special leave applications came up before this court for admission, this court directed notice to the Commissioner of Income-tax, Poona. The Commissioner opposed those applications. Overruling his objections, this court granted leave and directed registration of the appeals. When these appeals came up for hearing today, the learned counsel for the Commissioner reported that his instructions are not to oppose the appeals. This is a strange attitude. Under the circumstances, we have to decide these appeals without the assistance of the learned counsel for the Commissioner.

2. The facts of the case shortly stated are these :

3. The appellant is a manufacturer of sugar. It is a co-operative society registered under the Bombay Co-operative Societies Act. Amongst its members, there is a class of members known as producer-members, who have registered some portions of their lands with the assessee. Those members supplied sugarcane grown in those lands to the appellant's factory and they were paid price for the sugarcane supplied at a rate higher than the minimum price prescribed by the Government. Certain other facilities were also made available to them by the assessee. The Income-tax Officer disallowed the payments made by the assessee to the producer-members in excess of the minimum price fixed and computed the income of the assessee on that basis. The order of the Income-tax Officer was set aside by the Appellant Assistant Commissioner. He came to the conclusion that the price actually paid by the assessee must be taken into consideration in computing the income of the assessee. The order of the Appellant Assistant Commissioner was confirmed by the Tribunal. The Tribunal rejected the applications made by the Commissioner under section 66(1) for a reference to the High Court of certain questions of law said to arise from its order. Thereafter, the Commissioner moved the High Court under Section 66(2) and the High Court, as mentioned earlier, called upon the Tribunal to submit three questions for its decision.

4. Identical questions of law had come up for consideration in the assessee's assessment for the earlier assessment years, namely, assessment years 1957-58, 58-59, 59-60 and 60-61. In respect of those assessments the Tribunal had taken the same view which it has taken in the assessments before us (These appeals relate to the assessment of the assessee for the assessment years 1961-62, 1962-63 and 1963-64). In those case also the Commissioner's applications under section 66(1) had been

rejected by the Tribunal. Thereafter, the Commissioner had moved the High Court under section 66(2). Those applications were rejected by the High Court. Aggrieved by that decision the Commissioner had sought to appeal to this court under Article 136 of the Constitution. His special leave petitions had been rejected by this court. The questions of law now sought to be raised are substantially the same as those raised in the previous proceedings. There is absolutely no merit in the contentions advanced by the Commissioner. The High Court was not justified in accepting the Commissioner's applications under section 66(2). We, accordingly, allow these appeals and set aside the order of the High Court. The respondent shall pay the costs of the appellant both in this court as well as in the High Court. Hearing fee one set.

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