

Commissioner of Wealth-Tax, U.P. and Another

Vs

Kundan Lal Behari Lal

Special Leave Petition No. 1843 of 1974

(P. Jagmohan Reddy, P. K. Goswami JJ)

05.09.1974

ORDER

JAGANMOHAN REDDY, J. -

1. We have heard the learned Additional Solicitor-General who assails the judgment of the High Court and prays that special leave be granted. We, however, do not consider the point arising out of the judgment requires examination, but as it affects a large number of cases, we have been invited to give our reasons for dismissing the petition. Accordingly, we do so.

2. The main question on which the High Court decided and which is the only question urged before us for admitting the petition is that the word "issued" occurring in Section 18(2A) of the Wealth Tax Act means "served". This decision is well supported not only by the decisions of the High Court but also of this Court. In *Banarsi Debi v. I.T.O., Calcutta* (53 ITR 100 : (1964) 7 SCR 539 : AIR 1964 SC 1742), this Court observed that the expressions "issued" and "served" are used as interchangeable terms and in the legislative practice of our country they are sometimes used to convey the same idea. Accordingly, it was held that the word "issues" was not used in the narrow sense of "sent" but that the said expression had received, before the Indian Income-tax (Amendment) Act, 1959, a clear judicial interpretation. Subba Rao, J., as he then was, dealing with the purpose which the word "issue" was intended to serve, after referring to *Shri Niwas v. I.T.O.* ((1956) 30 ITR 381 (All)) cited in the judgment under attack and a Bombay decision, observed at page 108 :

The intention would be effectuated if the wider meaning is given to the expression 'issued'. The dictionary meaning of the expression 'issued' takes in the entire process of sending notices as well as service thereof. The said word used in Section 34(1) of the Act itself was interpreted by Courts to mean 'served'.

3. In our view any other conclusion would lead to incongruous and unjust results. The legal position being clear, this petition has to be dismissed and we accordingly do so.

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