

Shri S. M. Hasan, S.T.O., Jhansi and Another

Vs

M/S New Gramophone House, Jhansi

Civil Appeal No. 190-192 of 1971

(V.R. Krishna Iyer, A.C. Gupta, Syed M. Fazal Ali JJ)

23.09.1975

JUDGMENT

KRISHNA IYER, J. -

1. These appeals relate to sales-tax assessments for the period 1964-65. The assessments made were best-judgment assessments, which were challenged in the High Court under Article 226 of the Constitution. The High Court set aside the assessments, making various observations, but directed that it would be open to the opposite party 1, i.e., the Sales Tax Officer, who is also before us, to take the question of reassessment for two years in question. Although there were four years involved before the High Court, we are concerned only with three years since the State has not chosen to file an appeal in regard to the assessment for the year 1963-64.

2. We are satisfied that there is no need to interfere with the order of the High Court, but we should like to make certain clarifications. The reassessment for 1964-65 will be started and there will be no plea of limitation raised by the respondent, particularly, in the light of the amended provision, namely, the second proviso to Section 21(2) of the U. P. Sales Tax Act. It has been brought to our notice that so far as years 1965-66 and 1966-67 are concerned, assessment proceedings have been completed. Those assessment orders have been the subject of statutory appeals. We are not interested in what happened to those appeals. We further direct that while reassessing for the period aforesaid i.e. 1964-65, the officer will have due regard to the materials placed before him, if any, although it will be open to him, for good reasons, if any, to accept or reject the materials, including the accounts that may be placed before him. In case, the conditions for a best-judgment assessment are present, he will make it not on speculative or fanciful grounds but on reasonable guess since the best-judgment assessment does not negate the exercise of judgment on the part of the officer. We make it clear that whatever the observations of the High Court, the point driven home was only that a tax officer, who makes a best-judgment assessment, should make an intelligent well-grounded estimate rather than launch upon pure surmises. With these observations and subject to the above directions, these appeals are dismissed. There will be no order as to costs.

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