

K. S. Krishna Rao

Vs

Commissioner of Income-Tax, Andhra Pradesh

Civil Appeal No. 4789 of 1989

(S Ranganathan, N. D. Ojha, J. S. Verma JJ)

08.11.1989

ORDER

This is a petition under article 136 from an order of the High Court declining to call upon the Income-tax Appellate Tribunal to state a case and refer certain questions of law for its decision. The questions of law on which reference was sought stand concluded by our order of even date in Tax Referred Case No. 3 of 1976 (Rama Bai v. CIT [1990] 181 ITR 400). In view of this, we think that it will be a futile exercise to deal with the appeal as placed before us. We treat it instead as a special leave petition under article 136 from the order of the Tribunal deciding the question raised against the assessee, condoning the delay. Counsel for the Union of India takes notice of the petition. In the circumstances mentioned above, we grant leave and proceed to dispose of the appeal itself.

There were three questions decided by the Tribunal which are set out in the preliminary portion of the High Court's order. The first question is concluded by the decision of this Court in Narula's case [1964] 53 ITR 151 against the assessee. The second question is not pressed by counsel for the appellant. That leaves only the third question for consideration. This question is regarding the point of accrual of interest on compensation awarded under the Land Acquisition Act, where such compensation is enhanced by the order of a District Court/High Court on a reference under section 18 or further appeals. By our judgment in Tax Referred Case No. 3 of 1976 (Rama Bai v. CIT [1990] 181 ITR 400), we have held that such interest cannot be taxed all in a lump sum on the date on which the court passes an order for enhanced compensation but that it has to be spread over on an annual basis right from the date of delivery of possession till the date of the order of the court on a time basis.

We, therefore, set aside the order of the Tribunal and allow this appeal. The assessment will be modified in the light of our decision. In the circumstances, we make no order as to costs.

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