

Second Income-Tax Officer and Another

Vs

Stumpp Schuele and Somappa P. Ltd. (And Other Appeals).

Civil Appeals Nos. 771 to 776 of 1976

(K. N. Singh, Dr. T. K. Thommen, Kuldip Singh JJ)

14.09.1990

JUDGMENT

1. These appeals, by leave of this court under article 136 of the Constitution, are directed against the judgment and order of the High Court of Karnataka dated July 3, 1975(Second ITO v. Stumpp, Schuele and Somappa P. Ltd. [1977] 106 ITR 399), allowing the writ petitions filed by the respondent assessee and quashing the notices issued under section 8/16 of the Companies (Profits) Surtax Act, 1964.

After hearing learned counsel for the parties, we do not find any good reason to interfere with the view taken by the High Court. A similar view has been taken by a number of High Courts in Addl. CIT v. Bimetal Bearings Ltd. [1977] 110 ITR 131(Mad); Commissioner of Surtax v. Ballarpur Industries Ltd. [1979] 116 ITR 528(Bom); CIT v. Dalmia Cement (Bharat) Ltd. [1980] 126 ITR 736 (Delhi); CIT v. Premier Cotton Spinning Mills Ltd. [1981] 128 ITR 694(Ker); CIT v. Schrader Scovill Duncan Ltd. [1981] 132 ITR 822 (Cal); CIT v. Alembic Chemical Works Co. Ltd. [1982] 133 ITR 578 (Guj); Siemens India Ltd. v. K. Subramanian, ITO [1983] 143 ITR 120(Bom); K. Subramanian v. Siemens India Ltd. [1988] 173 ITR 136(Bom); CIT v. J.K. Synthetics Ltd. [1983] 143 ITR 396 (All); CIT v. Indian Detonators Ltd. [1983] 143 ITR 547(AP); CIT v. Oswal Woollen Mills Ltd. [1989] 178 ITR 635 (P & H); CIT v. Avery Cycle Industries (P.) Ltd. [1989] 178 ITR 173(P & H); and CIT v. Century Spg. and Mfg. Co. Ltd. [1978] 111 ITR 6(Bom). There is a preponderance of judicial opinion in favour of the assessee with which we agree.

The appeals fail and are, accordingly, dismissed. There will be no order as to costs.

Appeals dismissed.

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