

Bansal Commodities and another

Vs

Union of India and others

Civil Appeal No. 810 of 1992

(S. Ranganathan, V. Ramaswami, Dr. A.S. Anand JJ)

07.02.1992

JUDGMENT

1. Special leave granted. We have heard learned counsel for the parties. In this case, the Commissioners of Income-tax, Delhi-IX and X, had passed orders under S. 132(12) allowing petitions filed by the appellant to release the pay orders in question to the appellant (subject to bank guarantee in respect of a small amount with which we are not here concerned). There were two orders to this effect dated 27-11-89 and 15-12-89., Subsequently, one of the Commissioners', 'revised' his order dated 27-11-89 and dismissed the petition filed by the appellant. This was on 1-3-90. He did this in view of an assessment order which had been made subsequently on one S. K. Aggarwal. It is the validity of this order that is impugned in this appeal.

2. Learned counsel for the appellant submits that subsequently there have been several developments in this case. The assessment order made in the case of S. K. Aggarwal has been set aside for being redone. We also find that the High Court towards the end of its judgment observed that so long as the assessment on S. K. Aggarwal is not set aside, the question of the amount of Rs. 49.03 lacs being ordered to be paid to the appellant does not arise. This is also an aspect which would call for a reconsideration of the position in view of the fact that S. K. Aggarwal's assessment has been set aside. There are also, according to the appellant, certain other facts which have to be placed before the Commissioner of Income-tax in connection with the above matter.

3. Having regard to all these circumstances, we are of the opinion that the best course is to set aside the order of the High Court as well as the orders of the Commissioners of Income-tax dated 27-11-89, 15-12-89 as well as 1-3-90. In other words, the petitions filed before the Commissioners by the appellant under Section 132(11) of the Income-tax Act, would be restored to the file of the Commissioners for being disposed of afresh in accordance with law.

4. The Commissioners of Income-tax may now dispose of the petitions afresh, after giving an opportunity to the appellant of being heard within a period of four months from today in accordance with law. Till the disposal of the petitions, the restraint orders passed under S. 132(5) any action that might have been taken in pursuance thereof will continue to be in force.

5. We should not be understood to have expressed any opinion on the merits of the issue in the case or on the points raised before, or decided by, the High Court.

6. The appeal is disposed of as above with no order as to costs. Order accordingly.

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