

Martin Burn Ltd.

Vs

Commissioner Of Income Tax. W. B.

Civil Appeal Nos. 901-902 (Nt) Of 1980

(J. S. Verma, Dr. A. S. Anand JJ)

08.10.1992

JUDGMENT

DR. A. S. ANAND, J. -

1. These appeals were filed on a certificate of fitness granted by the High Court of Calcutta vide order dated November 29, 1978 in Income Tax Reference No. 292 of 1975.

2. In a reference under Section 256(1) of the Income Tax Act, 1961, the following question was referred for the opinion of the High Court :

"Whether, on the facts and in the circumstances of this case, the Tribunal was justified in law in restoring the appeals once again to the file of the Additional Commissioner of Income Tax, West Bengal-I, Calcutta for passing fresh orders under Section 263 of the Income Tax Act, 1961, after making further investigation ?"

3. After detailed discussion, Sabyasachi Mukharji, J. (as His Lordship then was) speaking for the Bench held that the Tribunal had power to make the remand in the manner it had done. The question was answered in the affirmative and in favour of the Revenue.

4. After hearing learned counsel for the parties, we are of the opinion that the answer rendered by the High Court of Calcutta to the question referred to it is unexceptionable and the view of the High Court is in consonance with the law laid down in *Hukumchand Mills Ltd. v. CIT* ((1967) 63 ITR 232 (SC)) and in *CIT v. Assam Travels Shipping Service* (1993 Supp (4) SCC 204).

5. Consequently, both the appeals fail and are dismissed. There shall be no order as to costs.

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