

Commissioner of Income-Tax

Vs

(1) Sakarlal Balabhai and Co. Ltd. and Others. (2) Nand Kishore Sakarlal Balabhai and Others. (3) Navnitlal Sakarlal (Huf) and Another.

Civil Appeal No. 3180 of 1992 with Civil Appeals Nos. 3358, 4635, 4238, 4636 of 1992 and 1664-1665 of 1994 and Civil Appeals Nos. 12531- 12533 (S.L.P. (Civil) Nos. 15006-15008 of 1992) of 1996, Civil Appeal No. 3180 of 1992

(B. P. Jeevan Reddy, K.S. Paripoornan JJ)

26.09.1996

JUDGMENT

K.S. PARIPOORNAN J.

Special leave granted in S.L.P. Nos. 15006-15008 of 1992.

The Revenue represented by the Commissioner of Income-tax, Gujarat at Ahmedabad, is the appellant in this batch of ten cases. The respondents are different assesseees to income-tax.

The Revenue has filed the appeals from different orders passed by the High Court of Gujarat, rejecting the applications filed by the Revenue under section 256(2) of the Income-tax Act, 1961. The questions formulated by the Revenue in different cases are specified hereinbelow :

Civil Appeal No. 3180 of 1992 :

"Whether the Appellate Tribunal is right in law and on facts in holding that while computing long-term capital gains on sale of shares, the bonus shares ought to have been valued at average cost for the purposes of computing the cost of acquisition ?"

Civil Appeal No. 3358 of 1992 :

"Whether the Appellate Tribunal is right in law and on facts in directing the Income-tax Officer to take the average price of bonus shares for computation of capital gains in respect of sale of 530 equity shares of Sarangpur Cotton Mfg. Co. Ltd., without reducing the cost price on receipt of bonus shares ?"

Civil Appeal No. 4635 of 1992 :

"Whether the Appellate Tribunal is right in law and on facts in directing the Income-tax Officer to take the average price of bonus shares for computation of capital gains in respect of sale of 716 equity shares of Sarangpur Cotton Mfg. Co. Ltd. without reducing the cost of original shares on averaging the cost price on receipt of bonus shares ?"

Civil Appeal No. 4238 of 1992 :

"Whether the Appellate Tribunal is right in law and on facts in directing the Income-tax Officer to take the average price of bonus shares for computation of capital gains in respect of sale of 1,633 equity shares of Sarangpur Cotton Mfg. Co. Ltd. without reducing the cost price on receipt of bonus shares ?"

Civil Appeal No. 4636 of 1992 :

"Whether the Appellate Tribunal is right in law and on the facts in directing the Income-tax Officer to take the average price of bonus shares for computation of capital gains in respect of sale of 660 equity shares of Sarangpur Cotton Mfg. Co. Ltd. without reducing the cost price on receipt of bonus shares ?"

Civil Appeals Nos. 1664-1665 (NT) of 1994 :

"Whether the courts below were right in law and on facts in holding that the cost of original shares should be taken either at the cost price or at the substitute price as on January 1, 1964 ?"

Civil Appeals Nos. 12531-12533 of 1996 : (S.L. Ps. Nos. 15006-15008 of 1992) :

"Whether the Appellate Tribunal is right in law and on facts in directing the Income-tax Officer to take the average price of bonus shares for computation of capital gain in respect of sale of 414 equity shares of Sarangpur Cotton Manufacturing Co. Ltd., without reducing the cost of original shares on averaging the cost price on receipt of bonus shares ?"

We heard counsel. In rejecting the applications under section 256(2) of the Income-tax Act, the High Court has not even adverted to the minimal facts, and the findings of the Appellate Tribunal and has failed to give the reasons as to why the applications are rejected. Various orders appealed against are far from satisfactory. We have perused the orders passed by the Appellate Tribunal in the appeals. We are of the view that on the basis of the findings entered by the Appellate Tribunal and the decisions adverted to by it, the questions of law posed in the various cases do arise out of the order of the Appellate Tribunal. It appears from the orders of the Appellate Tribunal that in disposing of the appeals and entering appropriate findings, discussion of alternate views was called for.

In the facts and circumstances, we set aside the orders passed by the High Court rejecting the applications of the Revenue filed under section 256(2) of the Income-tax Act. We direct the Income-tax Appellate Tribunal, Ahmedabad, to refer the questions of law in the different cases, as specified hereinabove, for the decision of the High Court and forward the same along with the statement of the case and the relevant documents. We expect that the Appellate Tribunal will take appropriate steps expeditiously, to enable the High Court to dispose of the matter finally. The appeals are allowed. There shall be no order as to costs.