

SUPREME COURT OF INDIA

B.A. Balasubramaniam & Bros. Co.

Vs.

Commissioner of Income Tax

(B Kirpal and S Kurdukar J.)

22.01.1998

ORDER

1. In these appeals the question involved relates to the interpretation of the explanation to Section 271(1)(c) of the Income-tax Act for the purpose of levying penalty on the concealed income. The High Court, on reference having been made, has come to the conclusion that as the difference between the income assessed and the income returned was more than 20%, therefore, the said Explanation became applicable and the Income-tax Officer was justified in imposing penalty because the assessee had not been able to discharge the onus which was on it under the said Explanation. For the interpretation of the said provision we need refer to three decisions of this Court viz., CIT v. Musadi Lal Ram Bharose , CIT v. K. R. Sadayappan and CIT v. Jeevan Lal Sah 1995 Supp (4) SCC 247. In these decisions it has been clearly stated that with the incorporation of the Explanation in Section 271, the view which had been taken earlier in CIT v. Anwar Ali no longer holds the field and it is for the assessee to discharge the onus of proof as contemplated by the said Explanation. In view of the fact that in the present case the onus has not been discharged, the High Court's judgment calls for no interference. The appeals are accordingly dismissed but with no order as to costs.