

SUPREME COURT OF INDIA

Commissioner of Income-Tax

Vs.

Data Software Research Co. Ltd.

(S.P. Bharucha and Ruma Pal JJ.)

20.07.2000

ORDER

1. The Division Bench of the High Court at Madras passed the order that is under challenge. The order noted that the application of the respondent before us under Section 80-O of the Income-tax Act, 1961, in regard to the two agreements that had been entered into by it on January, 3, 1979, and February 20, 1979, with a party in the United States of America were not approved for the assessment year 1981-82 on the ground that they had been produced only on September 30, 1982, The Division Bench said, "there is no provision under the Income-tax Act for the condonation of delay in the production. However, we feel that justice should be rendered. Therefore, we direct that the delay in the production of the agreement be condoned and the matter be taken up on merits. . . .".

2. Learned counsel for the appellant-Revenue assails the order on the ground that there being no provision under the Act for the condonation of delay in such production, the High Court could not have ordered condonation and consideration of the two concerned agreements in respect of the merits. Learned counsel for the respondent-assessee submits that though there is no provision for the condonation of delay in Section 80-O, the Central Board of Direct Taxes has a general power to condone delay under the provisions of Section 119.

3. The provisions of Section 80-O mandate the production of the agreements in respect of which relief is sought, "before the 1st day of October of the assessment year in relation to which the approval is first sought", and there is no provision for the condonation of such delay. There was also no application before the Central Board for condonation of delay. In the circumstances, the High Court ought not to have directed that delay in the production of the agreements be condoned. The courts are obliged to do justice according to the law. In ordering condonation of delay in these circumstances, it cannot, in our opinion, be said that justice according to the law was rendered by the High Court.

4. Learned counsel for the respondent submits that the respondent may be permitted at this stage to make an application to the Central Board. It shall be open to the respondent to take such steps as are available to it under the law and any such application shall be considered on its merits.

5. The civil appeals are allowed. The order under challenge is set aside.

6. No order as to costs.