

SUPREME COURT OF INDIA

Madanlal Patodia

Vs.

Commissioner of Gift-Tax

(S.P.Bharucha, D.P. Mohopatra and Y.K. Sabharwal JJ.)

01.11.2000

ORDER

1. We have read the judgment of the High Court (see [1994] 209 ITR 987) that is under appeal and it does appear to us that the High Court has proceeded upon a factual basis that is not indicated anywhere in the order of the Tribunal, which is the final fact-finding authority. The learned Solicitor-General, appearing on behalf of the Revenue, fairly, does not dispute this position. In his submission, however, the order of the Tribunal is erroneous by reason of the decision of this court in *Bharat Hari Singhania v. CWT* [1994] 207 ITR 1. This is not a case that was argued before the High Court and is not a case which was known to the assesseees.

2. We think, therefore, in the circumstances, that it is appropriate to allow the appeals, set aside the order under appeal and restore the reference (Matter No. 2658 of 1991 (see [1994] 209 ITR 967)) to the file of the High Court at Calcutta to be heard and disposed of afresh. It is made clear that it shall be open to both parties to raise appropriate contentions.

3. Order on the appeals accordingly.

4. No order as to costs.