

SUPREME COURT OF INDIA

Union of India

Vs.

Kaumudini Narayan Dalal

(S.P. Bharucha, N. S. Hegde and Y.K. Sabharwal JJ.)

06.12.2000

ORDER

1. The order under challenge in this appeal by the Revenue followed the earlier judgment of the same High Court in the case of Pradip Ramanlal Sheth v. Union of India [1993] 204 ITR 866. Learned counsel for the Revenue states that the papers before us suggest that a special leave petition was preferred against that judgment but he has no instructions as to what happened thereafter. Learned counsel for the respondents states that their enquiries with the Registry reveal that no appeal against that judgment was preferred by the Revenue.

2. If the Revenue did not accept the correctness of the judgment in the case of Pradip Ramanlal Sheth [1993] 204 ITR 866 (Guj), it should have preferred an appeal there against and instructed counsel as to what the fate of that appeal was or why no appeal was filed. It is not open to the Revenue to accept that judgment in the case of the assessee in that case and challenge its correctness in the case of other assesseees without just cause. For this reason, we decline to consider the correctness of the decision of the High Court in this matter and dismiss the civil appeal.

3. No order as to costs.