

SUPREME COURT OF INDIA

Commissioner of Income Tax

Vs.

C.A. Taktawala

C.A.No.1252 of 2008

(S.H. Kapadia and B.Sudershan Reddy,JJ.)

12.02.2008

ORDER

(Arising out of Special Leave Petition (C) No.19088/2006

1. Delay condoned.
2. Leave granted.
3. Having heard learned counsel for the parties, we are of the view that the High Court had erred in not answering the question which, in our opinion, was the substantial question of law under Section 260-A of the Income Tax Act, 1962.
4. We quote herein below for the sake of convenience the said question:

“Whether on the facts and circumstances of the case, the Tribunal was right in law and on facts in cancelling the penalty levied u/s 271(1)(a) and 273(2)(a) of the I.T. Act, on the ground that benefit under the Amnesty Scheme was available to the Assessee, particularly when subsequent to search operation, the Assessee itself had revised its returns on a number of occasions, which would go to show that the return was not voluntary?For the sake of clarity we also annex here the position of various returns filed for various Assessment years in question. Asst. Year 1982-83 1983-84 1984-85 1985-86

1. Original return filed on 3.3.83 12.7.84 28.6.85 28.6.85 Income declared Rs.
1,19,949/-
1,10,700/-
60,210/-
8070/-

2. First Revised return filed on 31.3.86 28.11.85 28.11.85 31.3.86 Income declared Rs

44,58,688/-
1,22,460/-
72,220/-
79,460/-

3. Second Revised return filed on 29.9.86 30.3.86 31.3.86 29.9.86 Income declared Rs

25,27,210/-
14,99,630/0 10,71,970/-
1,86,700/-

4. Third Revised return filed on 23.2.87 23.2.87 29.9.86 25.2.87 Income declared Rs

24,98,769/-
16,96,350/-
6,54,572/-
9,67,830/-

5. Fourth Revised return filed on 26.2.87 Income declared Rs 2,99,540/-

6.Original Asst. Order passed on 23.3.85 31.3.86 30.3.87 30.9.87 ASSESSED Income Rs.

20,29,840/-
15,31,240/-
11,70,540/-
10,27,700/-

7. Reassessment order passed on 31.8.87 7.9.87 Ultimate ASSESSED Income Rs.

38,22,110/-
16,98,150/-

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Having considered the above chart with relevant documents we are of the view that the above question needs to be considered by the High Court. Accordingly, the impugned order is set aside and the matters are remitted to the High Court for fresh consideration in accordance with law. Accordingly the Tax Appeal Nos.281-288 of 2005 stand restored to the file of the High Court.”

5. The appeal is disposed of with no order as to costs.

