

Gupta Rice Mills Vs. Commissioner of Income-tax

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Court : Allahabad

Decided On : Feb-08-1980

Reported in : (1980)16CTR(All)147; [1980]123ITR825(All); [1980]3TAXMAN584(All)

Judge : Satish Chandra, C.J. and ;H.N. Seth, J.

Acts : [Income Tax Act, 1961](#) - Sections 274 and 275

Appeal No. : Income-tax Reference No. 1137 of 1976

Appellant : Gupta Rice Mills

Respondent : Commissioner of Income-tax

Advocate for Def. : R.K. Gulati and ;A. Gupta, Advs.

Advocate for Pet/Ap. : S.P. Mehrotra, Adv.

Judgement :

Satish Chandra, C.J.

1. For the assessment year 1970-71, the assessee filed his return on 26th February, 1971, showing an income of Rs. 1,20,992. The ITO, by an order dated 1st of March, 1972, completed the assessment at an income of Rs. 1,61,180. The ITO, finding that the quantum of concealed income exceeded Rs. 25,000, referred the matter to the IAC for drawing up penalty proceedings. The IAC called upon the assessee, heard him and held that the concealed income was Rs. 8,657 and so he levied a penalty of Rs. 9,000 by an order dated 4th of March, 1974.

2. Aggrieved, the assessee went up to the Tribunal in appeal. The Tribunal upheld the finding that there was concealment. It repelled the explanation furnished by the assessee. It further held that the IAC had jurisdiction to pass the order that he did even though the concealed income was held by him to be below Rs. 25,000. It repelled the submission of the assessee that the penalty order was barred by limitation. It was held that the amendments effected in Section 275 of the I. T. Act by the Amending Act of 1971 which came into force on 1st April, 1971, was retrospective and was applicable to the present proceedings. The assessee's appeal was dismissed.

3. At the instance of the assessee, the Tribunal has referred the following questions of law for our opinion :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the IAC had jurisdiction to levy penalty even though he found

be retrospective in the sense that it will apply to all those matters which are pending and which had not become closed or dead on the date the amendment takes effect. The assessment order was passed on 1st of March, 1972. It will be the amended provision of Section 275 which will apply. The filing of the return on 26th of February, 1971, was immaterial.

6. In the result, we answer the first question in the affirmative, in favour of the department and against the assessee and the second question in the affirmative, in favour of the department and against the assessee. The Commissioner will be entitled to costs which are assessed at Rs. 200.

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