

CASE NO.:
Appeal (civil) 1252 of 2008

PETITIONER:
Commissioner of Income Tax, Ahmedabad

RESPONDENT:
C.A. Taktawala

DATE OF JUDGMENT: 12/02/2008

BENCH:
S.H. KAPADIA & B.SUDERSHAN REDDY

JUDGMENT:
JUDGMENT
O R D E R
(Arising out of Special Leave Petition (C) No.19088/2006

Delay condoned.
Leave granted.

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.

We quote hereinbelow for the sake of convenience the said question:

\023Whether 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
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not voluntary?\024

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.

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

