THE HON'BLE SRI JUSTICE DILIP B.BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

I.T.T.A. No.91 of 2003

JUDGMENT: (per Hon'ble Sri Justice Dilip B.Bhosale)

This income-tax appeal under Section 260A of the Income Tax Act, 1961 (for short 'the Act') is directed against the order of the Income Tax Appellate Tribunal, Hyderabad in I.T.A.No.1862/Hyd/1994 for the assessment year 1986-87.

The appellate Tribunal partly allowed the appeal filed by the Revenue against the order of the Deputy Commissioner of Income-Tax (Appeals) dated 07.09.1994 cancelling the penalties levied under Section 271 (1) (c) of the Act for the assessment years 1986-87 and 1987-88 and directed the Assessing Officer to levy the minimum penalty leviable against the assessee for both the assessment years.

Learned counsel for the appellant placed before us the order of this Court dated 03.09.2014 in companion I.T.T.A.No.92 of 2003 arising from I.T.A.No.1863 of 1994 for the assessment year 1987-88. This Court, while deciding the companion appeal filed by the very same assessee, allowed the appeal holding that there was no basis to levy penalty under Section 271 (1) (c) of the Act. The question that fell for the consideration was "whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the assessee was guilty of concealment of income and imposing penalty under Section 271 (1) (c) of the Act?". Though question was not formulated in the order dated 03.09.2014 in I.T.T.A.No.92 of 2003, the Division Bench considered the facts of the case and allowed the appeal. Learned counsel for the appellant, therefore, submits that the present appeal may also be decided in terms of the said judgment and answer the question as aforementioned in favour of the assessee and against the Revenue.

Learned counsel appearing for the Revenue could not and did not dispute the contentions urged by the learned counsel for the appellant.

Having regard to the judgment dated 03.09.2014, we answer the question raised in the instant appeal in favour of the assessee and against the Revenue.

The appeal is accordingly disposed of. However, there shall be no order as to costs.

Miscellaneous petitions pending in the appeal, if any, also stand disposed of.

Dilip B.Bhosale, J

A.Ramalingeswara Rao, J

4th February, 2015.
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