

Bombay High Court The Commissioner Of Income-Tax vs Pithwa Engg. Works on 1 July, 2005 Equivalent citations: 2005 (5) BomCR 41, (2005) 197 CTR Bom 655, 2005 276 ITR 519 Bom Author: V Daga Bench: V Daga, A Aguiar JUDGMENT V.C. Daga, J. 1. By this reference under Section 256(1) of the Income-Tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court : “Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that mistakes in assessments completed u/s. 143(1) of I.T. Act, 1961 cannot be rectified by resorting to the provisions of sec. 154 of the Income-tax Act, 1961?” 2. Heard learned counsel for the applicant-revenue. Perused reference proceedings. 3. This Court in the case of Commissioner of Income Tax v. Camco Colour Co. (2002) 254 ITR 565 ruled that the instructions issued by the Central Board of Direct Taxes, New Delhi, dated 27th March, 2000; wherein monetary limit for the department for filing reference to the High Court earlier fixed for Rs.50,000/-came to be revised and fresh instructions are issued to file references only in cases where tax effect exceeds Rs.2,00,000/-, are binding on the Department. 4. The above instructions dated 27th March, 2000 reflect the policy decision taken by the Board not to raise questions of law where the tax effect is less than the amount prescribed in the above circular with a view to reduce litigations before High Courts and Supreme Court. The said circular is binding on the Revenue though learned Counsel tried to contend that the said circular is not applicable to the old referred cases. However, he could not take his submission to a logical end. 5. One fails to understand how Revenue can contend that so far as new cases are concerned, circular issued by the Board is binding on them and in compliance with the said instructions, they do not file references if the tax effect is less than Rs.2 lakhs. But the same approach is not adopted with respect to the old referred cases even if the tax effect is less than Rs.2 lakhs. In our view, there is no logic behind this approach. 6. This Court can very well take judicial notice of the fact that by passage of time money value has gone down, cost of litigation expenses has gone up, the assesseees on the file of the departments have increased; consequently, burden on the department has also increased to a tremendous extent. The corridors of the superior courts are choked with huge pendency of cases. In this view of the matter, the Board has rightly taken decision not to file references if the tax effect is less than Rs.2 lakhs. The same policy for old matters needs to be adopted by the department. In our view, the Board’s circular dated 27th March, 2000 is very much applicable even to the old references which are still undecided. The department is not justified in proceeding with the old references wherein the tax impact is minimal. Thus, there is no justification to proceed with the decades old references having negligible tax effect. 7. We, for the above reasons, do not think it necessary to answer the reference made to this Court for the Assessment Year 1975-76 having negligible tax effect. Accordingly, reference stands returned unanswered with no order as to costs.