

Commissioner Of Income-Tax vs Sant Ram Mangat Ram Jewellers And Ors. on 14 January, 2003

Equivalent citations: (2004)186CTR(SC)115, [2003]264ITR564(SC), (2003)9SCC285, AIRONLINE 2003 SC 124, (2003) 264 ITR 564, (2004) 186 CUR TAX REP 115, (2004) 134 TAXMAN 262, 2003 (9) SCC 285, (2004) 181 TAXATION 1

Bench: M.B. Shah, D.M. Dharmadhikari

ORDER

1. 1. Heard the learned counsel for the parties.
2. The appellant shall pay Rs. 10,000 as costs because of the delay of 247 days in filing these special leave petitions.
3. Delay condoned.
4. Leave granted.
5. This appeal is filed against the judgment and order dated September 20, 1999, passed by the Income-tax Settlement Commission holding that for the assessment year 1993-94 waiver of interest chargeable under Section 234B of the Income-tax Act, 1961, is restricted to 50 per cent. It is the contention of learned counsel for the appellant-Revenue that the said order is illegal and erroneous, in view of the judgment rendered by this court in CIT v. Anjum M.H. Ghaswala and also the decision rendered by this court in C. A. Nos. 7966-7967 of 1996 entitled CIT v. Hindustan Bulk Carriers on December 17, 2002, [2003] 259 ITR 449.
6. As against this, learned senior counsel appearing on behalf of the respondents submitted that in the judgments rendered by this court in Ghaswala's case [2001] 252 ITR 1 as well as in Hindustan Bulk Carriers case [2003] 259 ITR 449, the court has not considered Explanation 1 under Section 234B of the Income-tax Act and, therefore, the said issue requires reconsideration.
7. In our view, after the pronouncement of the judgment in Ghaswala's case , it is not open to us to reconsider the same as it has been specifically held that the Settlement Commission has no power to waive mandatory interest as contemplated under Sections 234A, 234B and 234C of the Income-tax Act.
8. In this view of the matter, these appeals are allowed and the impugned order passed by the Settlement Commission is set aside. It would be open to the Revenue to recover interest as provided under the Act. There shall be no order as to costs.