Mahadeo Prasad Bais (Dead) vs Income-Tax Officer 'A' Ward, Gorakhpur ... on 12 September, 1991

Equivalent citations: 1991 AIR 2278, 1991 SCR SUPL. (1) 9, AIR 1991 SUPREME COURT 2278, 1991 (4) SCC 560, 1991 AIR SCW 2625, 1992 ALL. L. J. 1132, 1991 TAX. L. R. 985, (1992) 60 TAXMAN 388, (1991) 6 JT 150 (SC), 1992 (2) UPTC 876, (1991) 98 CURTAXREP 230, (1991) 192 ITR 402, (1992) 1 SCJ 108

PETITIONER:
MAHADEO PRASAD BAIS (DEAD)

Vs.

RESPONDENT:
INCOME-TAX OFFICER 'A' WARD, GORAKHPUR AND ANR.

DATE OF JUDGMENT12/09/1991

BENCH:
RANGNATHAN, S.
BENCH:
RANGNATHAN, S.
RAMASWAMI, V. (J) II
OJHA, N.D. (J)

CITATION:
1991 AIR 2278 1991 SCR Supl. (1) 9
1991 SCC (4) 560 JT 1991 (6) 150
1991 SCALE (2)541

ACT:
Income Tax Act, 1961 --Sections 148, 150 and 297(2)(d)(ii) Reassessment--Limitation Removal of bar of limitation---When arises.

HEADNOTE:
The appellant (since deceased) was being assessed as the Karta of the Hindu Undivided Family consisting of himself, his mother, his wife and three sons until the assessment years 1948-49. For the assessment year 1949-50 and subsequent years upto 1961-62 he filed a return in his individual capacity claiming that there had been a total partition of the family and that he was assessable in respect of the income from the properties of the family that fell to his share on partition; in the alternative he claimed partial

partition. Both of his claims having been negatived, the entire income was assessed in the hands of the Hindu Undivided Family and the returns filed by the appellant in his individual capacity were finalised on the footing that there was no income assessable in his individual capacity. The Hindu Undivided Family went up in appeals and ultimately the Tribunal accepted the claim of partial partition in respect of some of the properties. The conclusion of the Tribunal was affirmed by the High Court, with the result that the income from some of the erstwhile family properties stood excluded from the assessment of the Hindu Undivided Family and became liable to be included in the hands of the appellant. The original assessments made on the appellant as an individual for the assessment upto 1961-62 had been completed under the Income-tax Act, 1922 and in these assessments no income from the erstwhile joint family properties had been included as the Income Tax Officer was of the view, as in 1949- 50, that it was assessable in the hands of the family. There were no proceedings initiated or pending under Section 34 of the 1922 Act in respect of these assessment years as on 1.4.1962, when the 1922 Act was repealed by the 1962 Act. The Income Tax Officer therefore, served a notice for reassessment on the appellant, invoking the provisions of Section 297(2)(d)(ii) of the Act. The appellant resisted the reassessment proceedings on the ground that notice was barred by limitation while the department contended that the reassessment proceedings in this case were saved by the provisions of Section 150(1) of the 1961 Act. The High Court accepted the contention of the department.

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Dismissing the assessee's appeal, this Court,

HELD: The provisions of Section 150(1) have been specially made applicable and operative in respect of a notice under section 148 issued in pursuance ofSection 297(2)(d)(ii). The application of the provisions of Section 297(2)(d)(ii) gives rise to two sets of situations to one of which the language of Section 150(1) would squarely apply. Section 150(1) will operate to lift the time bar in cases where the reassessment is initiated under section 148 to give effect to an order passed under the 1961 Act. Section 297(2) is a provision enacted with a view to provide for continuity of proceedings in the context of repeal of one Act by a fresh one broadly containing analogous provisions and the transitory provisions should as far as possible, be construed so as to affect such continuity and not so as to create a lacuna. It will therefore be appropriate to so read the words of section 297(2)(d)(ii) as to permit the applicability of section 150 (or section 153) with the necessary modifications. [18 G, 19A-B, D-E]

The last words of Section 297(2)(d)(ii) should be read to mean that where the proceedings initiated under Section 148, subject to the relaxations and limitation of Sections 149 and 150, all the provisions of the Act shall apply

accordingly: that is to say, in the same manner as they would apply in case of proceedings normally initiated under these provisions. Since reassessment proceedings so initiated to give effect to orders on appeal, revision or reference will not be subject to a time limit, the proceedings likewise initiated under Section 297(2)(d)(ii) read with Section 149 will also not be subject to any limitations save to the extent mentioned in Section 150(2). [19 E-F]

Income Tax Officer v. Eastern Coal Co. Ltd., (1975) 101 I.T.R. 477; Commissioner of Income Tax' v. Kamalapat Motilal, (1977) 110 I.T.R. 769; Ambaji Traders v. Income Tax Officer, (1976) 105 I.T.R. 273; Commissioner of Income Tax v.T.P. Asrani, (1980) 122 I.T.R. 735; Jain v. Mahendra, (1972) 83 I.T.R. 104; Govinddas v. Income Tax Officer, (1976) 103 I.T.R. 123; Seth Gujannal Modi v. Commissioner of Income Tax, (1972) 84 I.T.R. 261; Third Income Tax Officer v. Damodar Bhat, (1969) 71 I.T.R. 806; Jain Bros. v. Union of India, (1970) 77 I.T.R. 107, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1934 of 1978.

From the Judgment and Order dated 21.12.1977 of the Allaha- bad High Court in Civil Misc. Writ Petition No. 227 of 1977. Ms. Rachna Gupta for the Appellant.

S.C. Manchanda and K.P. Bhatnagar for the Respondents. The Judgment of the Court was delivered by RANGANATHAN, J. The Income-tax Act, 1961 replaced the Indian Income-tax Act, 1922 w.e.f. 1.4.1962. The repeal of the earlier Act necessitated the enactment of transitional provisions to facilitate the change over. Perhaps the sim- plest course would have been to provide that the new Act would apply to all proceedings for the assessment year 1962-63 and thereafter. The legislature, however, evolved a more complicated procedure. While section 297(1) of the new Act declared that the Indian Income-tax Act, 1922 stood repealed by the new Act, sub-section (2) of the above section made detailed and meticulous provisions in clauses (a) to (m) as to whether the new Act or the old Act will govern in the various situations dealt with therein. These provi- sions have led to a lot of litigation and the controversy in this appeal also arises out of one such provision. We are concerned here with the scope of proceedings for reassess- ment in respect of assessment years prior to 1962-63 and the answer to the question before us turns on the provisions of the following two sections of the 1961 Act:

> Section 297 "297(1) xxx xxx xxx (2) Notwithstanding the repeal of the Indian Income-tax Act, 1922 (11 of 1922) (hereinafter referred to as 'the repealed Act') xxx xxx xxx xxx
>
> (d) where in respect of any assessment year after the year ending on the 31st day of March

(i) a notice under section 34 of the re-

pealed Act had been issued before the com-

mencement of this Act, the proceedings in pursuance of such notice may be continued and disposed of as if this Act had not been passed;

(ii) any income chargeable to tax had es-

caped assessment within the meaning of that expression in section 147 and no proceedings under section 34 of the repealed Act in re-

spect of any such income are pending at the commencement of this Act, a notice under section 148 may, subject to the provisions contained in section 149 or section 150 be issued with respect to that assessment year and all the provisions of this Act shall apply accordingly."

Section 150 "150(1) Notwithstanding anything contained in section 149, the notice under section 148 may be issued at any time for the purpose of making an assessment or reassessment or recomputation in consequence or, or to give effect to, any finding or direction contained in an order passed by any authority in any proceed- ing under this Act by way of appeal, reference or revision."

(underlining ours) We may proceed now to set out how the question arises in the present case: The appeal arises out of an order of the High Court in a writ petition filed by one Mahadeo Prasad Bais (since deceased, represented by his legal representa- tives) challenging reassessment proceedings initiated against him for the assessment years 1953-54 to 1963-64. The appeal is, however, restricted to the assessment years 1953-54 to 1961-62. Upto assessment year 1948-49, the appel- lant was being assessed as the Karta of a Hindu Undivided Family consisting of himself, his mother, his wife and three sons. For the assessment year 1949-50 and subsequent years upto 1961-62 he had filed a return in his individual capaci- ty on the footing that there had been a total partition of the family within the meaning of Section 25A of the Indian Income-tax Act, 1922 and that he was assessable in respect of the income from the properties of the family allotted to him at the partition. In the alternative, he claimed partial partition of some of the joint family properties.f Both these claims were initially negatived and the entire income was assessed in the hands of the Hindu Undivided Family. The returns filed by the appellant in his individual capacity were finalised by holding that there was no income assessa- ble in his individual capacity. The Hindu Undivided Family went up in appeals and ultimately the Tribunal accepted the claim of partial partition in respect of some of the proper- ties with effect from different dates. This conclusion of the Tribunal was also affirmed by the High Court in the decision reported as Mahadeo Prasad Bais v. Income- tax Officer, (1972) 84 ITR 48 which related .

to the assessment years 1956-57 to 1958-59. Consequent on these decisions of the Tribunal and the High Court, the income from some of the erstwhile family properties stood excluded from the assessment of the Hindu Undivided Family and became liable to be included in the hands of the present appellant. The assessment for 1949-50 and subsequent years upto 1961-62 on the family had

been completed and the ap- peals and reference disposed of under the Indian Income-tax Act, 1922.

The original assessments made on the appellant as an individual for the assessment years 1953-54 to 1961-62 had been completed under the Indian Income-tax Act, 1922. In these assessments no income from the erstwhile joint family properties had been included as the officer was of the view, as in 1949-50, that it was assessable in the hands of the family. There were no proceedings initiated or pending under Section 34 of the 1922 Act in respect of these assessment years as on 1.4.1962. Quite sometime after the High Court had decided the reference for 1949- 50 in the case of the family, the Income-tax Officer thought of steps to include the income assessable in the hands of the appellant conse- quent on the decisions of the Tribunal and the High Court which he had failed 10 assess earlier. He, therefore, served on the appellant on 19.3.1977 notices for reassessment, as required by section 297(2)(d)(ii), under section 148 of the 1961 Act. The appellant resisted these proceedings, inter alia, on the ground that the notices were barred by limita- tion. The department, however, contended that, though nor- mally reassessment proceedings had to be initiated within a period of four, eight or sixteen years as the case may be, under the then provisions of Section 149 of the 1961 Act, the reassessment proceedings in this case were saved by the provisions of Section 150(1) of the 1961 Act set out earli- er. This contention of the department has been accepted by the High Court in the decision under appeal before us which is reported in (1980) 125 ITR 49.

The issue involved in this appeal is basically a short one turning on the language of section 150(1). Before con- sidering the interpretation of this section, we may, howev- er, point out that, on this question, there appears to be a conflict of judicial opinion between the several High Courts. The Allahabad High Court, in the decision presently under appeal (1980)125 I.T.R. 49 and the Calcutta High Court in I.T.O. v. Eastern Coal Co. Ltd., (1975) 101 ITR 477 have taken the view that a reassessment in such circumstances is saved by the provisions of Section 150(1) of the 1961 Act. An earlier Allahabad decision in C.I.T. v. Kamalapat Moti- lal, (1977)110 I.T.R. 769 and an earlier Bombay decision in Ambaji Traders v. 1.T.O., (1976)105 I.T.R. 273 took a simi- lar view on the analogous provision contained in section 153(3) of the 1961 Act but a contrary view was taken by the latter High Court in the latter case reported as CIT v.T.P. Asrani, (1980) 122 ITR 735. Both sets of decisions have placed reliance on certain observations of this Court in differing contexts. But it will be best to have a look at the statuto- ry provisions first, in the context of the facts of the present case.

To start with, there is no dispute that reassessment proceedings were rightly initiated under section 148 of the Act. It is also common ground that on the language of sec- tion 148, as it stood at the relevant time, no notice under section 148 could have been issued in March 1977 for the assessment years in question. The Revenue can successfully support the validity of this notice only by reference to section 150 (1). Two questions then arise: (i) Are the provisions of section 150 (1) attracted ? (ii) If yes, do they save the impugned proceedings ? The answer to the first question is furnished by section 297 (2) (d) (ii), the very clause which authorises the issue of the notice of reassess- ment under section 148. It permits the issue of the notice under section 148, "subject to the provisions contained in section 149 or section 150". Though the words "subject to"

> may be appropriate in the context of section 149 and section 150 (2) (which place restrictions on the issue of the notice u/s 148), they are somewhat inappropriate a

propos section 150 (1) which relaxes the conditions for issue. But there is no doubt that the statute clearly intends that the benefit of enlargement of the time limited under section 149 should be available in respect of the notice issued under s. 148 read with s. 297 (2) (d) (ii). The answer to the second question is furnished by s. 150 (1).itself. It removes the bar of time when the reassessment proceedings are initiated in consequence of or to give effect to a finding contained in an order passed by any authority in any proceeding by way of appeal, reference or revision. There is no difficulty here for the orders of the Tribunal and the High Court for the several years between 1949-50 and 1961-62 were passed in proceedings by way of appeals and reference and there is no dispute that the reassessment proceedings have been initiat- ed to give effect to findings in such orders. There is, however, a catch in applying the terms of s. 150(1) ' to this case. There is no doubt that the whole idea of the sub-section was to lift the embargo placed on initiation of reassessment proceedings and to remove the time limit where the notice of reassessment is issued with a view to give effect to a direction or finding contained in an appellate order or an order passed on revision or on reference. Unfor- tunately, however, in expressing its above intention, the legislature has worded the exemption from time limit so as to cover only cases where the finding or direction is con- tained in an order passed by any such authority in any such proceeding "under this Act" i.e. the 1961 Act. In the present case the assessments for 1949-50 and subsequent years in the case of the family were made under the old Act and were the subject matters of appeal to the Appellate Assistant Commissioner and Tribunal and of refer- ence to the High Court under the provisions of the 1922 Act. In other words, the finding in consequence of which the assessments presently under consideration are being sought to be reopened is a finding contained in orders passed not 'under this Act' but in orders passed under the 1922 Act. Literally applied, therefore, the language of section 150 (1) does not help the department to overcome the bar of limitation otherwise imposed by Section 149.

Pressing for the literal construction of the sub-sec- tion, it is contended for the appellant that there are good reasons why this construction should be accepted:

(1) To accept the contention of the depart-

ment would mean the virtual deletion of the words "under this Act" from s. 150 (1);

(2) It seems clear that the above words have not been inadvertantly used in the statute. If one turns 10 s.153 (3), which is an extension of s. 150 (1) removing the time ban for the completion of reassessments initiated for the same purpose, the legislature goes further than section 150 (1) and makes specific refer- ence to particular provisions of the new Act; (3) The provisions of s. 150 (1) will not become redundant if read in the manner con- tended for by the assessee. While no doubt the proceedings are initiated, in all cases cov- ered by section 297 (2) (d) (ii), under the new Act, the orders, for giving effect to a finding or direction in which such proceedings are initiated, may belong to either category - they may be orders passed under the old Act or they may be orders passed under

the new Act. The terms of section 150 (1) will be effective in the latter category of cases; and (4) The provisions contained in Ss. 150 (1) and 153 (3) are provisions exempting the applicability of a normal rule of limitation otherwise applicable to actions for reassess- ment and such provisions should be construed strictly.

On the other hand, it is contended for the department that the object of the provision being very obvious, namely, that where reassessment proceedings are initiated to give effect to orders on appeal, reference or revision, there should be no time limit tying down the hands of the Revenue as such orders are seldom likely to be passed within the limits of time mentioned in s. 149, we should give effect to the clear intention of the legislature and should not frustrate its object. It is, therefore, necessary to examine the provisions of s. 297 (2) (d) (ii) and s. 150 (1) a little more closely and examine which of the two interpretations is preferable.

Taking up the appellant's interpretation first, it has no doubt the attractiveness of simplicity. It is a strict and literal interpretation of s. 150 (1). This apart, learned counsel drew our attention to the fact that the decided cases have referred to certain decisions of this Court in this context. We do not, however, think that the decisions of this Court in Jain v. Mahendra, (1972) 83 ITR 104 and Govinddas v. I.T.O, (1976)103 ITR 123 cited by appellant's counsel arc of any assistance to them. In the former case, a notice u/s 34 had been issued before 1.4.1962 but it had been quashed as without jurisdiction as it was barred by time. The question was whether the proceedings initiated by the notice can be said to have been pending as on 1.4.1962. The Court answered the question in the affirma- tive. It held that, for purposes of s. 297 (2) (d) (ii), all that had to be seen was whether proceedings under s. 34 of the 1922 Act were factually pending on 1.4.1962. That the notice issued before that date was barred by time and was held so later was immaterial. The notice had in fact been quashed by the High Court in a writ only much later, on 6.3.1963, and so proceedings under s. 34 were pending as on 1.4.1962. We are unable to see how this decision is of any help here. In the second case, the claim by the assessee, a Hindu undivided family, that there had been a partial partition on 15.11.1955 (as a result of which the share income from two firms had ceased to be the income of the family from that date) was accepted by the Income-tax Officer. Subsequently, the assessments of the two firms for the assessment years 1950-51 to 1956-57 had been reopened and reassessments were made on them enhancing their income. Consequently action was also taken to reopen the assessments of the family (which, for the relevant previous years had a share in the firms' income). These assessments were initiat- ed under the new Act in accordance with the provisions of s. 297 (2) (d) (ii). The assessee had no grievance thus far. But, while completing the reassessment, the officer, in addition to reassessing the family, also took advantage of the provisions enacted in Ss. 171(6) and (7) of the 1961 Act

- which had no counter part in the 1922 Act - and passed orders apportioning the tax assessed on the family amongst its members. This was objected to by the assessee. The department, referring to the language of s. 297 (2) (d)

(ii)-"that all the provisions of this Act shall apply ac- cordingly", contended that the I.T.O. could legitimately invoke the provisions of Ss. 171 (6) and (7) as well while making the reassessments. This contention was negatived. The Court observed:

> "These words merely refer to the machinery provided in the new Act for the assessment of the escaped income. They do not import any substantive provisions of the new Act which create rights or liabilities. The word "ac- cordingly" in the context means nothing more than "for the purpose of assessment" and it clearly suggests that the provisions of the new Act which are made applicable are those relating to the machinery of assessment."

It will be at once clear that this line of approach can have no validity in the context of section 297 (2) (d) (ii). Here there is no need to guess or speculate on which provi- sions of the new Act are to apply. The section itself, in so many words, provides that Ss. 148, 149 and 150 will apply to the initiation of a reassessment proceeding under s. 297 (2)

(d) (ii) and this cannot be negatived by the last few words of that clause. On the contrary, as pointed out earlier, they place it beyond all doubt that the provisions of the 1961 Act have to be applied to the reassessment on the basis that Ss. 148 to 150 apply. This case also does not, there- fore, advance the case of the assessees.

It is next contended by the appellant's counsel that the very issue before us had been considered in the decision of this Court in Seth Gujarmal Modi v. CIT, (1972) 84 ITR 261 and this concludes the issue in his favour. The second headnote at page 261 seems to bear out this contention. It reads:

> " ..... Since the Appellate Assistant Com- missioner's order was not passed under the 1961 Act, the department could not take any support from section 150 (1) of the Act."

A perusal of the decision shows, indeed, that this was the ground on which a separate contention urged on behalf of the department on the basis of section 150 (1) was repelled. It is no doubt seen from the facts of the case that it was a case of reassessment under section 297 (2) (d) (i) of the Act and the Court specifically held that reassessment pro- ceedings should have been initiated under section 34 of the 1922 Act and not under section 148 of the 1961 Act. In view of this conclusion no question of drawing any support from section 150 (1) could at all arise. Still an argument was addressed and was repelled on the basis of the words "under this Act" used in section 150 (1) thus upholding the literal construction argument now addressed on behalf of the asses- see. We shall consider this decision later after considering the department's contentions.

As against the above contentions, Sri Manchanda submits that the provisions of section 150 (1) should be applied not blindly but with necessary modifications to suit the situa- tion. In support of this plea, he relies strongly on the last few words of s. 297 (2) (d) (ii). It is urged that the expression :"all the provisions of this Act shall apply accordingly" should be so construed as to enable the Revenue to invoke reassessment proceedings on the footing that the orders on appeal or reference were ones passed "under this Act" within the meaning of s. 150 (1). Sri Manchanda cited two decisions in support of his contention. In Third I.T.O. v. Damodar Bhat, (1969) 71 I.T.R. 806 the question was whether proceedings under s. 226 (3) of the new Act would apply with respect to a tax liability incurred under the 1922 Act. The answer to this question, in the affirmative, turned on the language of s. 297 (2) (j). which provided that any tax or other dues payable under the 1922 Act may,

notwithstanding the repeal of the 1922 Act, be recovered under the Act. The contrary interpretation accepted by the High Court in that case would have had the effect of nulli- fying the provisions of s. 297 (2)(j). Again, in Jain Bros. v,. Union of India, (1970) 77 ITR 107, it was held that penalty could be imposed under s. 271 (1) of the 1961 Act in respect of returns filed before 1.4.1962 and assessments completed after 1.4.1962 but under the 1922 Act. This was because of s. 297 (2) (g), the special transitory provision in this behalf, which provided that "any proceeding for the initiation of a penalty in respect of any assessment for the year ending on the 31st day of March 1962 or any earlier year, which is completed on or after the 1st day of April, 1962, may be initiated and any such penalty may be imposed under this Act." Here again s. 297 (2) (g) had been enacted to provide for the exact situation in question and to have held to the contrary would have rendered the provisions of s. 297 (2) (g) meaningless and redundant.

The position is no doubt a little different here. The provisions of s. 150 (1) have been specially made applicable and operative in respect of the notice under s. 148 issued in pursuance of s. 297 (2) (d)(ii) and, as pointed out earlier, the application of the provisions of s. 297 (2)(d)(ii) gives rise to two sets of situations to one of which the language of s. 150(1) would squarely apply and so the interpretation sought for by the appellant does not render the words of s. 150 (1) redundant. Despite this point of difference in the two situations, we think that the principle of the above decisions that the mutatis mutandis rule should be invoked in interpreting s. 297 (2) has application here also. Not to do so would no doubt not make section 150(1) redundant but it will bring about an unintended and inequitable situation. It is clear that section 150 (1) will operate to lift the time bar in cases where the reassessment is initiated under section 148 to give effect to an order passed under the 1961 Act. Equal- ly, where assessments had been reopened under section 34 of the 1922 Act before 1.4.1962 to give effect to orders passed under the 1922 Act and are continued after that date by virtue of section 297 (2) (d) (i), the provisions of the second proviso to section 34 (3) of that Act would preclude the operation of the normal rule of limitation for reassess- ments. In this situation, it will be a great anomaly to reach the conclusion that the time limit will operate in cases where proceedings under section 148 are initiated to give effect to an order on appeal, revision and reference merely because such order is one passed under the 1922 Act. Neither reason nor rhyme can explain how the statue could have intended such anomaly or why it should be so interpret- ed as to result in a discriminatory treatment only to this class of cases. An interpretation which will result in such anomaly or absurdity should be avoided. It is also necessary to remember that s. 297 (2) is a provision enacted with a view to provide for continuity of proceedings in the context of repeal of one Act by a fresh one broadly containing analogous provisions and the transitory provisions should, as far as possible, be construed so as to effect such conti- nuity and not so as to create a lacuna. For these reasons we think that it will be appropriate to so read the words of section 297 (2)(d)(ii) as to permit the applicability of section 150 (or section 153) with the necessary modifica- tions. To paraphrase, the last words of s. 297(2)(d)(ii) should be read to mean that where the proceedings initiated under s. 148, subject to the relaxations and limitation of Ss. 149 and 150, all the provisions of the Act shall apply accordingly: that is to say, in the same manner as they would apply in case of proceedings normally initiated under these provisions. Since reassessment proceedings so initiat- ed to give effect to orders on appeal, revision or reference will not be subject to a time limit, the proceedings like- wise initiated under s. 297(2)(d)(ii) read with s. 148 will also not be subject to any limitations save to the extent mentioned in s. 150(2).

We would like to add that, even if section 150(1) is to be read literally and considered as posing a hurdle as contended for by the appellant, we think this result can be overcome by a liberal interpretation of section 297(2)(k). This clause reads:

> "any agreement entered into, appointment made, approval given, recognition granted, direc- tion, instruction, notification, order, or rule issued under any provision of the repealed Act shall, so far as it is not inconsistent with the corresponding provision of this Act, be deemed to have been entered into, made, granted, given or issued under the corresponding provision aforesaid and shall continue in force accordingly;"

This is principally a provision intended to save admin- istrative steps taken under the 1922 Act by deeming them to be steps taken under the 1961 Act. Strictly construed, the words "order issued" also would seem, prima facie, to carry only a similar connotation. But we see no objection, for our present purposes, in the way of our construing these words liberally and consequently deeming the orders passed and issued by the Tribunal and the High Court in this case for the assessment year 1949-50 and subsequent assessment years as orders passed or issued under the corresponding provi- sions of the new Act. Once this deeming is made, there is no difficulty in the way of accepting the Revenue's contention. We think that the circumstances justify a slight straining of the language of this clause and applying it so interpret- ed to the problem before us so as to avoid a meaningless anomaly. Thus construed, the statute can be said not to have misfired in its application to the situation in the present case.

We should, before we conclude, refer to the decision of this Court in the Gujar Mat Modi case. As we have pointed out earlier, the principal conclusion reached in that case was that proceedings under section 148 could not have been initiated as the case fell under the provisions of section 297(2)(d)(i). It was, therefore, unnecessary to deal with the contention based upon section 150. Moreover, this part of the decision was only based on a prima facie reading of section 150(1) and contains no discussion of the various aspects that need consideration and have been touched upon above. We do not, therefore, think that the above decision can be treated as conclusive on the issue before us which, for the reasons discussed above, we think, should be an- swered differently.

We affirm the conclusion of the High Court and dismiss the appeal. No costs.

Y.L. Appeal dismissed.