

J.K. Synthetics Ltd. And Ors. vs Central Board Of Direct Taxes And Anr. on 24 September, 1971

Equivalent citations: [1973]83ITR335(SC), (1972)4SCC689, 1972(4)UJ220(SC)

Author: K.S. Hegde

Bench: A.N. Grover, H.R. Khanna, K.S. Hegde

JUDGMENT

K.S. Hegde, J.

1. The Writ Petition Bled by the Appellants was summarily dismissed by a Division Bench of the Delhi High Court. While dismissing the Writ Petition the Learned Judges gave a speaking order. Against that decision this appeal has been brought by certificate. After some discussion the counsel for the appellant sought the permission of the court to withdraw the Writ Petition in the peculiar circumstances of the case. This Writ Petition is primarily directed against certain communications sent by the Central Board of Direct Taxes dated the 18th March, 1970, 25th July, 1970 respectively to the appellants. We were informed by the counsel for both the parties that the decisions conveyed in those communications were not made in exercise of any of the powers conferred on the Board by any law. They were merely replied to the communications sent by the appellants. They cannot be even considered as directions under Section 119 of the Income-tax Act, 1961. as they pertain to decisions to be taken by concerned taxing authorities. The Board is not competent to give directions regarding the exercise of the any judicial power by its subordinates. The opinions expressed in those communications pertain to the exercise of judicial powers by the taxing authorities, as it is for those authorities to determine as to the year in which the undertaking began to "manufacture or to produce articles" within the meaning of Section 80J of the Income tax Act, 1961. The communications sent by the Board and impugned in the Writ Petition are replies sent by the Board to the letters written by the appellant. They cannot bind the taxing authorities who have to decide the question in issue on its own merits, uninfluenced by extraneous considerations. The question in issue is a question of fact.

2. We are sure that the concerned authorities will not be influenced either by the opinion expressed by the Board as to when the undertaking began to "manufacture or to produce articles" or by the observations of the High Court while dismissing the Writ Petition in deciding the question of the liability to pay tax or the question of levying penalty either on the company or his shareholder.

3. The appellants-petitioners' prayer to withdraw the Writ Petition from which this appeal arose is allowed and the appeal is dismissed as being withdrawn, for the reasons mentioned earlier. No costs.