

Commissioner Of Income-Tax vs Sarabhai Management Corporation Ltd. on 28 August, 1991

Equivalent citations: [1991]192ITR151(SC), AIR ONLINE 1991 SC 11, (1991) 192 ITR 151, (1992) 102 CUR TAX REP 164, (2010) 94 ALLINDCAS 58

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Bench: S. Ranganathan

ORDER

1. The question in this appeal which arises out of an income-tax reference is as to the date of commencement of the respondent-assessee's business. The Tribunal was of the opinion that the business of the assessee could not be said to have commenced during the year which ended on March 31, 1965. The High Court has, however, taken a contrary view [vide judgment and answered the question in favour of the assessee. Hence, this appeal by the Department.

2. Dr. Gauri Shankar, learned Counsel for the Union of India, vehemently contends that the finding arrived at by the Tribunal was a finding of fact. He refers to a number of decisions of this Court as well as of High Courts to the effect that, where a finding of fact is given by the Tribunal, the High Court, in its advisory jurisdiction, will not interfere with it unless it is a case of no evidence or one of misdirection in law or one of a conclusion being reached which no reasonable man would arrive at on the proved facts. There can be no quarrel with the proposition put forward by Dr. Gauri Shankar. However, the High Court has pointed out rightly, in our opinion, that, in this case, the Tribunal has proceeded on a misapprehension regarding the nature of the assessee's business. It has analysed the various component activities of the assessee's business and pointed out that two categories of the activities of the business had been carried on during the previous year in question. The assessee had purchased a property ; it was on the look out for persons to whom it could be let out; it had been able to get a customer ; and it had carried out repairs, rewiring, installation of lift and other steps in the process of getting the premises converted from a residential house into a business and storage accommodation conforming to the requirements of the customer. Even if, as submitted by Dr. Gauri Shankar, the first category of activity referred to by the High Court, viz., the acquisition of a property for being let out can be said to be only a preparatory stage (analogous to the acquisition of buildings, plant and machinery in a manufacturing business), the subsequent activities certainly constitute activities in the course of the carrying on of the assessee's business. It would not be correct, as rightly pointed out by the High Court, to treat the assessee as having commenced its business only when the licensee or lessee occupied the premises or started paying rent. In these circumstances, we are of the opinion that the High Court was right in interfering with the finding of the Appellate Tribunal which was based on a misdirection in law.

3. We, therefore, find no merit in this appeal which is dismissed. We, however, make no orders regarding costs.