

Supreme Court of India

Commissioner Of Income-Tax, ... vs S.G. Magavi on 8 January, 1971

Equivalent citations: 1971 81 ITR 475 SC, 1971 III UJ 253 SC

Author: J Shah

Bench: J Shah, A Grover, K Hegde

JUDGMENT J.C. Shah, C.J.

1. Counsel appearing for the parties are agreed that the point raised by the first question in these appeals was decided by this Court in Jain Brothers and Ors. v Union of India and Ors. 77 ITR 107. The answer to the first question will be in the affirmative.

2. The second question raised by the tribunal and submitted before the High Court was in the following terms:

Whether on the facts and in the circumstances of the case, the tribunal was right in rejecting the view that the tribunal has a discretion Under Section 271(1)(a) of the Income-tax Act, 1961, as to whether a penalty should be levied at all.

The question raised is somewhat obscure in its import. But we understood that it was the case of the commissioner of Income-tax that if the conditions prescribed by Section 271(1)(a) of the Income-tax Act were satisfied, the tribunal must impose a penalty and has no jurisdiction to direct that penalty may not be levied. The High Court in answering this question observed :

Our answer to the second question is that (he tribunal has a discretion to say that no penalty could be levied at all, only in a case where there is no default or there is a reasonable cause for the default to which Section 271(1)(a) refers-We should however observe that our answer to the first question makes it unnecessary for us to answer the second.

3. The answer recorded by the High Court to be the second question has not been challenged in the memorandum of appeal filed in this Court In the circumstances we are not called upon to express our opinion on the question whether the view taken by the High Court is correct. The appeals succeed in respect of question No. 1. In respect of the second question, there is no appeal before us. The respondent has not defended the appeals before us. There will be no order as to costs.