REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 2362 OF 2019
(Arising out of S.L.P.(C) No.20075 of 2017)

Commissioner of Income Tax-I ....Appellant(s)

VERSUS

M/s Rashtradoot (HUF) ....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.

2. This appeal is filed against the final judgment and order dated 25.10.2016 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur in D.B. Income Tax Appeal No. 43 of 2002 whereby the Division Bench of the High Court dismissed the

appeal filed by the appellant herein and affirmed the order dated 24.05.2001 passed by the Income Tax Appellate Tribunal (ITAT), Jaipur Bench, Jaipur in I.T.S.S.A. No.29/JP/2000.

3. A few facts need mention *infra* for the disposal of the appeal.

4. This appeal filed by the Revenue arises out of the income tax proceedings initiated against the respondent(assessee) on the basis of a search operation which was carried out by the Income Tax Department in assessee's premises on 04.09.1997. This gave rise to initiation of assessment proceedings for the block period from 01.04.1987 to 04.09.1997 (Assessment Years 1987-88 to 1996-97 and 1997-98 up to 04.09.1997) against the assessee to determine their tax liability as a result of search operations carried in their premises. The matter, out of the block assessment proceedings, reached to the Income Tax Appellate Tribunal at the instance of

the respondent against the order of the assessing authorities.

5. The Tribunal (ITAT), however, decided the various issues arising in the case in favour of the respondent(assessee) by allowing the respondent's appeal, which gave rise to filing of the appeal by the Revenue before the High Court under Section 260A of the Income Tax Act, 1961 (hereinafter referred to as “the Act”).

6. The High Court by impugned judgment dismissed the Revenue's appeal, which gave rise to filing of this appeal by way of special leave by the Revenue in this Court.

7. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal and remand the case to the High Court for deciding the appeal afresh on merits in accordance with law.

8. The need to remand the case to the High Court has arisen for the reason that on perusal of the impugned order, we find that the High Court has set out the facts in paragraph 2 and the submissions of the counsel for the parties in paragraphs 3 to 9. In paragraph 10, the High Court mentioned the names of the counsel who argued the case and then in paragraphs 12 and 13, the High Court states as under :

> **"12. The Tribunal while considering the judgment on 24.05.2001 did not consider the amendments envisaged by the legislature, therefore, under Section 260-A when we are considering substantial law, we have to consider whether the Tribunal has committed an error.**
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> **13. In view of the above, the issue is answered in favour of the assessee and against the department. The view taken by this Court in a case of Relaxo Foorwear(supra) will apply in the present case and the view taken by the Tribunal is liable to be confirmed and the same is confirmed."**

9. A perusal of the aforementioned two concluding paragraphs would go to show that the

High Court has neither discussed and nor assigned any reason in support of its conclusion for the dismissal of the appeal.

10. Indeed, the observation made in paragraph 13 that "In view of the above" does not lead us anywhere because, as mentioned above, in the paragraphs 1 to 12 no reasons are mentioned except the facts and the submissions.

11. That apart, we find that the High Court committed another error. The High Court while deciding the appeal heard the learned counsel for the parties, yet did not frame any substantial question of law arising in the case.

12. Section 260A of the Act is akin to Section 100 of the Code of Civil Procedure, 1908 (hereinafter referred to as “the Code”) with addition of sub-sections (6)(a),6(b) and (7) of Section 260A of the Act.

13. The High Court has jurisdiction to dismiss the appeal filed under Section 260A of the Act on the ground that it does not involve any substantial question of law. Such dismissal is considered as a dismissal of the appeal in *limine*, i.e., dismissal without issuing any notice of appeal to the respondent and without hearing the respondent.

14. The High Court has also the jurisdiction to dismiss the appeal by answering the question(s) framed on merits or by dismissing the appeal on the ground that the question(s) though framed but such question(s) does/do not arise in the appeal. The High Court, though may not have framed any particular question at the time of admitting the appeal along with other question, yet it has the jurisdiction to frame additional question at a later stage before final hearing of the appeal by assigning reasons as provided in proviso to Section 260A(4) and Section 260A(5) of the Act and lastly, the High

Court has jurisdiction to allow the appeal but this the High Court can do only after framing the substantial question(s) of law and hearing the respondent by answering the question(s) framed in appellant's favour.

15. However, in this case, we find that the High Court did not dismiss the appeal in *limine* but dismissed it after hearing both the parties. In such a situation, the High Court should have framed the question(s) and answered them by assigning the reasons accordingly one way or the other by exercising powers under sub-sections (4) and (5) of Section 260A of the Act.

16. As mentioned above, in the absence of any discussion or/and the reasoning/ground as to why the order of ITAT does not suffer from any illegality and why the grounds of Revenue are not acceptable and why the appeal does not involve any substantial question(s) of law or though framed cannot be

answered in Revenue's favour, the impugned order suffers from jurisdictional errors and, therefore, legally unsustainable for want of compliance of the requirements of sub-sections (4) and (5) of Section 260A of the Act.

17. This Court has consistently laid emphasis that every order/judgment, which decides the *lis* between the parties, must contain the reason(s)/ground(s) for arriving at a particular conclusion.

18. Indeed, what is decisive for deciding the case is not the conclusion alone but the reason(s)/ground(s) assigned in support of such conclusion, which results in reaching to such conclusion.

19. In order to decide as to whether the impugned order is legally sustainable or not, the Appellate Court is entitled to know as to what impelled the Court below to pass such order in favour of one

party and against the aggrieved party. We find that this requirement is missing in the impugned order of this case and hence the interference is called for. (See- **State of Maharashtra vs. Vithal Rao Pritirao Chawan,** (1981) 4 SCC 129, **Jawahar Lal Singh vs. Naresh Singh & Ors.,** (1987) 2 SCC 222, **State of U.P. vs. Battan & Ors.**, (2001) 10 SCC 607, **Raj Kishore Jha vs. State of Bihar & Ors.,** (2003) 11 SCC 519 and **State of Orissa vs. Dhaniram Luhar,** (2004) 5 SCC 568).

20. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and remand the case to the High Court with a request to decide the appeal filed by the Revenue (Commissioner of Income Tax) afresh on merits in accordance with law.

21. Before parting, we may observe that we have not expressed any opinion on the merits of the case

having formed an opinion to remand the case to the High Court in the light of our foregoing discussion. The High Court will, therefore, decide the appeal in accordance with law uninfluenced by any observations made by this Court.

.....J.
[ABHAY MANOHAR SAPRE]

.....J.
[DINESH MAHESHWARI]

New Delhi;
February 27, 2019