

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11729 of 2000

For Approval and Signature:

HONOURABLE Mr JUSTICE A. L. DAVE

HONOURABLE Mr JUSTICE K. A. PUJ

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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PORBANDAR COAL AGENCY-2.

Versus

JT COMMISSIONER OF INCOME-TAX.

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Appearance :

Mr SN SOPARKAR, SR. ADVOCATE with Mrs SWATI SORPORKAR,

ADVOCATE, for the Petitioner.
Mr MR BHATT, SR. ADVOCATE, with Mrs MONA BHATT, ADVOCATE, for the
Respondent.

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CORAM : HONOURABLE Mr JUSTICE A. L. DAVE
and
HONOURABLE Mr JUSTICE K. A. PUJ

Date : 16/06/2009

ORAL JUDGMENT :- (Per : A. L. DAVE, J.)

1. The petitioner is a dissolved partnership firm. The firm was constituted on 1.4.1993 by virtue of dissolution of an earlier firm. On 1.4.1995, the firm was dissolved and the business was transferred to a company called Porbandar Coal Agency Pvt. Ltd.

2. The petitioner, by this petition, challenges notice dated 4th December, 1999, issued by the respondent proposing to reopen block assessment of the petitioner for the period ending 1.4.1995, on the ground that no re-assessment proceedings are permissible in case of an Assessment Order under the scheme of Block Assessment. The petitioner has raised this averment in the petition.

3. It is indicated by learned Senior Advocate, Mr. Soparkar, that the question is already addressed and answered by this Court in the case of *Cargo Clearing*

Agency (Gujarat) v. Joint Commissioner of Income Tax, (2008) 307 ITR 1 (Gujarat), where a view is taken that once assessment has been framed under Section 158BA of the Income Tax Act, in relation to undisclosed income for the block period as a result of search, there is no question of the Assessing Officer issuing notice under Section 148 of the Act for reopening such assessment as the said concept is repugnant to the special scheme of assessment of undisclosed income for the block period. We have examined the said judgment and we find that the issue arising before us is squarely covered and answered by the said judgment of Cargo Clearing Agency (supra).

4. In this view of the matter, the petition deserves to be allowed. The impugned notice dated 14th December, 1999 is hereby quashed and set aside. Rule is made absolute without any orders as to costs.

[A. L. DAVE, J.]

[K. A. PUJ, J.]

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