(21) The strike being legal and justified, the termination of the services of the workmen was, therefore obviously illegal and unjustified.

(22) Now the next question that falls for consideration is as to what relief the workmen are entitled to. In the circumstances of this case, we are of the opinion that reinstatement of the workmen with fifty per cent back-wages and other service benefits in continuity of service would meet the ends of justice for all the workmen in the present case are the permanent workers of the respondent-management, and we order accordingly.

(23) While ordering reinstatement, we are aware of the fact that in the meantime the respondent-management might have employed fresh hands, but in this regard our burden is somewhat lightened by the fact that when during the proceedings we tried to get the parties to arrive at some compromise, the respondent-management made an offer to reinstate the workmen in question with payment of five year's minimum wages which offer was not acceptable to the appellant Union.

(24) For the reasons aforementioned, we allow the appeal, set aside the judgment of the learned Single Judge dated 15th October, 1984 and maintain the award of the Industrial Tribunal dated 29th October, 1980 with costs which are assessed at Rs. 1,000 (Rs. One thousand only).

R.N.R.

Full Bench

Before P. C. Jain, C.J., D. S. Tewatia and S. P. Goyal, JJ.

COMMISSIONER OF INCOME TAX,—*Appellant.*

versus

MOHINDER LAL,—*Respondent.*

Income Tax Reference No. 219 *of* 1980

August 14, 1986.

Income Tax Act (XLIII of 1961)—*Sections* 271(1)(c) *and* (2) *and* 274(2) *as amended by Taxation Laws (Amendment) Act,* 1975—*Section* 65—*Income Tax Officer while framing assessment recording a finding that assessee had concealed income above Rs.* 25,000—*Said I.T.O.*

referring the case to Inspecting Assistant Commissioner under Section 274(2) for levy of penalty under Section 271(2)—Jurisdiction of Inspecting Assistant Commissioner taken away prior to the date of reference by deletion of Section 274(2) by Section 65 of the Amendment Act—Inspecting Assistant Commissioner, however, proceeding with the matter and imposing penalty—Inspecting Assistant Commissioner—Whether can be said to have been seized of the matter prior to the amendment made by Section 65 of the Amendment Act—Said Officer once having been seized of the matter—whether can be divested of that jurisdiction by the subsequent amendment in the law—Order of the Inspecting Assistant Commissioner imposing penalty—Whether valid.

Held, that the provisions of sub section (2) of Section 274 of the Income Tax Act, prior to its amendment by the Taxation Laws Amendment Act, 1970, provide that where the minimum penalty imposable exceeds the sum of rupees one thousand, the Income-tax Officer shall refer the case to the Inspecting Assistant Commissioner, who alone was competent to pass any order. So, the proceedings for the imposition of the penalty were to be initiated by the Income-tax Officer even when the penalty imposable was more than Rs. 1,000, and the case was to be referred to the Inspecting Assistant Commissioner only at the stage when the Income-tax Officer was of the opinion that the penalty imposable exceeded the said sum. The Income Tax Officer was himself not required to initiate any penalty proceedings or issue any notice in this regard to the assessee. Obviously, according to this provision, the Inspecting Assistant Commissioner could have jurisdiction only when the Income Tax Officer recorded the order to make a reference. Actual sending of the reference at that time was only a ministerial act to be performed by the office and the I.A.C. was deemed to have been seized of the matter when the I.T.O. ordered the reference to be made. After 1970 Amendment Act, on the other hand, the Income-tax Officer is duty bound to make a reference the moment he completes the assessment and comes to the conclusion that the amount of income, particulars of which have been concealed, exceeds the sum of Rs. twenty five thousand. The Income-tax Officer had no option but to refer the case to the Income Tax Appellate Commissioner the moment he had completed the assessment proceedings and come to the conclusion aforestated. There is, therefore, no escape from the conclusion that the penalty proceedings shall be deemed to have been initiated and the I.A.C. would be seized of the matter on the date when the assessment was finalised. As such it has to be held that the reference made to the I.A.C. would be deemed to have been made on the day when the assessment was finalised and the I.A.C. would be said to have been seized of the matter prior to the deletion of Section 274(2) by Section 65 of the Taxation Law Amendment Act, 1975.

(Para 8)

Held, that a provision of a statute dealing merely with matters of procedure may properly, unless that construction be textually inadmissible, have retrospective effect attributed to them, whereas the provisions which touch a right in existence at the passing of the statute are not to be applied retrospectively in the absence of express enactment or necessary intendment. A party has a right to get a decision from the Tribunal which had jurisdiction before the amendment of law, but there are two well recognised exceptions to this rule, (i) where the enactment has expressly or impliedly taken away that right with retrospective effect (2) where the Court to which the appeal lay at the commencement of the proceedings stand abolished. As such, the Inspecting Assistant Commissioner once seized of the matter cannot be divested of that jurisdiction by the subsequent amendment in the law and as such the order of the said Officer imposing penalty is valid.

(Para 11).

116 I.T.R. 215.
117 ITR 319,
142 ITR 101,
105 ITR 105,
113 ITR 56.

(Dissented from)

Reference under Section 256(1) *of the Income-tax Act* 1961 *made by the Income-Tax Appellate Tribunal (Amritsar Bench) Amritsar for the opinion of this Hon'ble Court on the following question of law arising out of the Tribunal's order dated* 13*th December,* 1979 *in I.T.A. No.* 34/*Chandi*/78-79 (*assessment year* 1973-74):—

"Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the IAC had no valid jurisdiction in law to levy penalty ?"

(*This case was referred to a Larger Bench by the Division Bench consisting of Hon'ble Mr. Justice D. S. TEWATIA and Hon'ble Mr. Justice SURINDER SINGH on July* 13, 1984 *for the decision of an important question of law involved in the case. The Larger Bench consisting of Hon'ble the Chief Justice Mr. PREM CHAND JAIN, Hon'ble Mr. Justice D. S. TEWATIA and Hon'ble Mr. Justice S. P. GOYAL finally decided the case on* 14*th August,* 1986).

Ashok Bhan, Sr. Advocate with Ajai Mittal, Advocate, *for the Appellant.*

B. S. Gupta, Advocate with S. K. Hiraji, and Jagdish Singh, Advocates, *for the respondents.*

JUDGMENT

S. P. Goyal, J.—

(1) The following question which has been referred to by the Tribunal at the instance of the Commissioner of Income-tax

Jalandhar, for the opinion of this Court, pertains to the jurisdiction of the Inspecting Assistant Commissioner, to decide the question of penalty and the consequent imposition of penalty of Rs. 58,000 by him,—*vide* order, dated 25th February, 1978 under section 271(1)(c) of the Income-tax Act, 1961 :—

> "Whether the Tribunal has been right in law in holding that the penalty amounting to Rs. 58,000 imposed by the IAC,—*vide* order, dated 25th February, 1978 under section 271(1)(c) of the Income-tax Act, in pursuance of a reference admittedly made under section 274(2) on 23rd December, 1976 was without jurisdiction in view of the fact that sub-section (2) of section 274 had been omitted by section 65 Taxation Laws (Amendment) Act, 1975, with effect from 1st April, 1976 ?"

The respondent is a Hindu undivided family with its business Head Office at Kotkapura and a branch at Baja Khana. The business is stated to be purchase and sale of petroleum products. Return for the assessment pear 1973-74 was filed on 4th December, 1973, declaring income of Rs. 13,330. The case was fixed for hearing before the Income-tax Officer on 27th June, 1975, on which date the assessee filed a revised return declaring income at Rs. 21,430. The Income-tax Officer, however, completed the assessment on 10th March 1976, under section 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') on a total income of Rs. 48,880.

(2) While processing the assessment, the Income-tax Officer noticed wrong totalling in the account books maintained by them in the head office and branch office. By wrong totalling, as per the Income-tax Officer, the assessee concealed its income at Rs. 29,100. In the assessment framed the Income-tax Officer recorded the charge that the assessee had concealed its income to the tune of Rs. 29,100 and penal action was called for.

(3) Though sub-section (2) of section 274 of the Act was deleted from the statute book by the Taxation Laws (Amendment) Act of 1975 with effect from 1st April, 1976, the Income-tax Officer issued a notice under section 274 read with section 271(1)(c) of the Act on 23rd December, 1976, intimating the assessee that the case for levy of penalty was being referred to the Inspecting Assistant Commissioner and that further proceedings with regard to the levy of penalty

would take place before the said Officer as provided under sub-section (2) of section 274 of the Act. The assessee raised a preliminary legal objection before the Inspecting Assistant Commissioner that after the deletion of sub-section (2) of section 274 of the Act with effect from 1st April, 1976 the reference made on 23rd December, 1976 was not valid and that he had no jurisdiction to proceed in the matter. The Inspecting Assistant Commissioner, however, imposed the penalty by stating that the return having been filed before 1st April, 1976, the provisions of the Taxation Laws (Amendment) Act, 1975, were not attracted. The assessee also contested the levy of penalty on merits. The Inspecting Assistant Commissioner, however, imposed penalty of Rs. 58,000,—*vide* order dated 25th February, 1978, with reference to the addition of Rs. 29,100 made in the assessment.

(4) The Tribunal cancelled the penalty on the preliminary legal objection that both at the time when the penalty proceedings were referred to the Inspecting Assistant Commissioner and he assumed jurisdiction and also at the time when the order was passed, that is, on 25th February, 1978, he had no valid jurisdiction in law in view of the deletion of sub-section (2) of section 274 with effect from 1st April, 1976.

(5) Finding that a question of law arose from the order of the Tribunal, the Commissioner of Income-tax, Jalandhar, filed an application under section 256(1) of the Act, praying that the question of law as framed be referred to this Court for its opinion. As earlier observed, the Tribunal agreed with the prayer made by the Commissioner and consequently referred the question which has been reproduced in the earlier part of the judgment for our decision.

(6) The matter came up for hearing before a Division Bench of this Court. Mr. Ashok Bhan, Senior Advocate, appearing for the Revenue had canvassed before the Bench that the order, dated 13th December, 1979, of the Tribunal holding that the Inspecting Assistant Commissioner had no jurisdiction to deal with the question of imposition of penalty under section 271(1)(c) of the Act on the date he passed the order imposing penalty, that is, 25th February, 1978, because as a result of Taxation Laws (Amendment) Act, 1975, which took effect from 1st April, 1976, the Income-tax Officer alone was competent to deal with the question of imposition of penalty and the jurisdiction of the Inspecting Assistant Commissioner envisaged under sub-section (2) of section 271 of the Act stood abolished as a result of

the deletion of sub-section (2) of section 274 of the Act by the amending Act with effect from 1st April, 1976, was patently illegal. In support of his contention, decisions of various High Courts taking one or the other view were cited. Finding that there was difference of opinion amongst the High Courts as to whether the relevant date is the date on which the Income-tax Officer has made the reference to the Inspecting Assistant Commissioner or the date on which he has initiated the penalty proceedings on his file for the purpose of seeing as to whether the date on which the Inspecting Assistant Commissioner passed the order, he had the requisite jurisdiction to deal with the matter or not. Finding that the question posed for decision was of considerable importance, the matter was referred to be decided by a larger Bench.

(7) This is how we are seized of the matter.

(8) The question which needs determination has two facets, viz., as to when can the Inspecting Assistant Commissioner be said to have seized of the matter, and having once seized of it would he be divested of the same on his jurisdiction having been taken away by the subsequent amendment in the law. The answer to the first query depends upon the interpretation of the provisions of Section 271(1)(c) read with Section 274(2) of the Act. The relevant portion of the said section provides that if the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings under this Act, is satisfied that any person : (c) has concealed the particulars of his income or furnished inaccurate particulars of such income he may direct such person shall pay by way of penalty. * * *. Sub-section (2) of Section 274 when it was deleted with effect from April 1, 1976, read as under :—

> "Notwithstanding anything contained in clause (iii) of sub-section (1) of Section 271, if in a case falling under clause (c) of that sub-section, *the amount of income (as determined by the Income-tax Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees,* the Income-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose have all the powers conferred under this Chapter for the imposition of penalty."

The underlined words in the said section were introduced by Taxation Laws (Amendment) Act, 1970 enforced with effect from April 1, 1971 and prior thereto, the said sub-section read as under :—

> "Notwithstanding anything contained in clause (iii) of sub-section (1) of section 271, if in a case falling under clause (c) of that sub-section, the minimum penalty imposable exceeds the sum of Rs. 1 000, the Income-tax Officer shall refer the case to the Inspecting Assistant Commissioner who shall, for the purpose, have all the powers conferred under this Chapter for imposition of the penalty."

From the combined reading of the provisions noticed above, it is evident that the first step towards the imposition of the penatly is recording of the satisfaction by the Income-tax Officer or the Appellate Assistant Commissioner in the course of any proceedings that the assessee has concealed the particulars of his income or furnished inaccurate particulars of such income. The moment the satisfaction is recorded by the Income-tax Officer/Appellate Assistant Commissioner, as the case may be, penalty becomes imposable subject to the provisions of Section 274(1) and (2). Sub-section (1) of Section 274 provides that no order imposing a penalty under this Chapter shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard. Sub-section (2) prior to April 1, 1971 provided that where the minimum penalty imposable exceeds the sum of rupees one thousand, the Income-tax Officer shall refer the case to the Inspecting Assistant Commissioner, who alone was competent to pass any order. So, the proceedings for the imposition of the penalty were to be initiated by the Income-tax Officer even when the penalty imposable was more than Rs. 1,000, and the case was to be referred to the Inspecting Assistant Commissioner only at the stage when the Income-tax Officer was of the opinion that the penalty imposable exceeded the said sum. It is not necessary to notice the various decisions cited by the learned counsel for the parties on the interpretation of the said provision of law because it would suffice to refer to the authoritative pronouncement of the Supreme Court in this regard in *D. M. Manasvi* v. *Commissioner of Income-tax Gujarat-II* (1) wherein the law with regard to the initiation of the penalty proceedings was settled thus :

> "Proceedings for the imposition of penalty under section 271(1) of the Income-tax Act, 1961, have necessarily to be initiated

(1) (1972) 86 I.T.R. 557.

by the Income-tax Officer or by the Appellate Assistant Commissioner. The fact that the Income-tax Officer has to refer the case to the Inspecting Assistant Commissioner if the minimum penalty imposable exceeds Rs. 1,000 in a case falling under section 271(1)(c) does not show that the proceedings in such a case cannot be initiated by the Income-tax Officer. It is the satisfaction of the Income-tax Officer in the course of the assessment proceedings regarding the concealment of income which constitutes the basis and foundation of the proceedings for levy of penalty.

What is contemplated by section 271(1) is that the Income-tax Officer should have been satisfied in the course of the assessment proceedings regarding matters mentioned in the clauses of that sub-section. It is not essential that the notice to the person proceeded against should have also been issued during the course of the assessment proceedings. Satisfaction, in the very nature of things preceded the issue of notice and it would not be correct to equate the satisfaction of the Income-tax Officer with the actual issue of notice."

(9) The Taxation Laws (Amendment) Act, 1970 enforced with effect from April 1, 1971, brought about a very significant and material change in the provisions of sub-section (2) of section 274 inasmuch as under the new provision the I.T.O. was required to refer the case to the Inspecting Assistant Commissioner the moment he finalised the assessment and recorded a finding that the amount of income in respect of which particulars had been concealed or inaccurate particulars furnished, exceeds the sum of twenty-five thousand rupees. So under the amended provision, the Income-tax Officer was not to initiate any penalty proceedings or issue any notice in this regard to the assessee. The case, therefore, would be deemed to have been referred to the Inspecting Assistant Commissioner on the recording of the conclusion by the Income-tax Officer that the amount of the concealed income exceeded Rs. 25,000 and the actual reference to the case would be only a ministerial act to be performed by the office. The natural corollary to this finding would be that the I.A.C. will be deemed to have seized of the penalty proceedings the moment the said finding is recorded by the Income-tax Officer and that the law applicable at that moment has to be applied to determine as to who has the jurisdiction to impose penalty proceedings. If the concealed income is found to be less than

25,000 rupees, the I.T.O. would be entitled to take proceedings for the imposition of the penalty and if exceeded the said amount it would be I.A.C. only who would be competent to do so.

(10) The learned counsel for the assessee, however, relying on *the Commissioner of Income-tax Delhi-IV* v. *Daropdi Devi* (2), *Commissioner of Income-tax Poona* v. *Gangadas Topandas,* (3), and *Commissioner of Income-tax* v. *S. Sardar Singh* (4), contended that the I.A.C. would be seized of the matter only when the reference is made to him by the Income-tax Officer and not when the assessment is completed and the amount of income concealed is found to be more than twenty-five thousand rupees. In all three decisions relied upon by him the assessment had been completed and the penalty proceedings initiated before 1970 Amendment Act, but it was after the enforcement of that Act with effect from April 1, 1971 that the Income-tax Officer came to be of the opinion that the penalty imposable was more than Rs. 1,000 and, therefore, referred the case to the I.A.C. By the time, he took decision to refer the case, his jurisdiction had been enlarged and the reference could be made only if the concealment of income was found to be more than twenty-five thousand rupees. On these facts—It was held that the I.A.C. gets the jurisdiction only when a reference is made to him and if by that time the I.T.O. got the jurisdiction to impose penalty, the reference was bad-in law and so was the order passed by the I.A.C. Obviously, these cases have no bearing on the cases arising after the enforcement of 1970 Act with effect from April 1, 1971, because prior thereto the penalty proceedings were to be initiated in all other cases by the I.T.O. whether the penalty imposable was one thousand rupees and more. It was only when the I.T.O. during the penalty proceedings was of the opinion that the penalty imposable was more than Rs. 1 000 that he was required to refer the case to the I.A.C. Obviously, according to this provision of sub-section (2) of Section 274, I.A.C. could get jurisdiction only when the I.T.O. recorded the order to make the reference. Actual sending of the reference even at that time was only a ministerial act to be performed by the office and I.A.C. was deemed to have been seized of the matter when the I.T.O. ordered the reference to be made. After 1970 Amendment Act, on the other hand, the Income-tax Officer is duty bound to make a

(2) (1984) 149 I.T.R. 178.
(3) (1984) 150 I.T.R. 437.
(4) (1978) 113 I.T.R. 541.

reference the moment he completes the assessment and comes to the conclusion that the amount of income, particulars of which have been concealed, exceeds the sum of Rs. 25,000. He is not to initiate proceedings or to issue any notice in this regard to the assessee. A reference to the I.A.C., therefore, would be deemed to have been made the moment finding is recorded that the income concealed exceeds Rs. 25,000 and a reference is ordered to be made and not when the ministerial act of sending of the reference by the office is actually done. In the present case, the Income-tax Officer on the completion of the assessment on March 10, 1976 recorded the finding that the amount of income concealed was Rs. 29,100. As soon as this finding was recorded, he was bound to order the case to be referred to the I.A.C. for taking penalty proceedings. He did not do so and instead ordered a notice to be issued to the assessee to show cause as to why penalty should not be imposed and referred the case thereafter to the I.A.C. on December 23, 1976. Even on these facts, there is no escape from the conclusion that the penalty proceedings shall be deemed to have been initiated and the I.A.C. seized of the matter on March 10, 1976. As already stated above, the Income-tax Officer had no option but to refer the case to the I.A.C. the moment he had completed the assessment proceedings and came to the conclusion that the amount of income, particulars of which had been concealed, was more than twenty-five thousand rupees. The reference, therefore, would be deemed to have been made and the I.A.C seized of the matter on March 10, 1976 and not on December 23. 1976 when the reference was actually sent.

(11) The second facet of the question as to whether the I.A.C. having once seized of the matter of imposition of penalty would be divested of the same after the amendment of Section 271 whereby the jurisdiction of the Assessing Authority was enlarged and extended upto Rs. 25,000 does not present much difficulty. The law in this regard stands settled by the Supreme Court in 1975 S.C. 1843 in the following terms :—

> "Before ascertaining the effect of the enactments aforesaid passed by the Central Legislature on pending suits or appeals it would be appropriate to bear in mind two well established principles. The first is that 'while provisions of a statute dealing merely with matters of procedure may properly, unless that construction be textually inadmissible, have retrospective effect attributed to them, provisions which touch a right in existence at the passing of the

statute are not to be applied retrospectively in the absence of express enactment or necessary intendment' (see *Delhi Cloth and General Mills Co. Ltd.* v. *Income-tax Commissioner*), (5). The second is that a right of appeal being a substantive right the institution of a suit carries with it the implication that all successive appeals available under the law then in force would be preserved to the parties to the suit throughout the rest of the career of the suit. There are two exceptions to the application of this rule viz. (1) when by competent enactment such right of appeal is taken away expressly or impliedly with retrospective effect and (2) when the court to which appeal lay at the commencement of the suit stand abolished (see *Garikapati Veeraya* v. *N. Subbiah Choudhry*, (6), and *Colonial Sugar Refining Co. Ltd.* v. *Irving*, 7.

According to this decision the party has a right to get a decision from the Tribunal who had jurisdiction before the amendment of the law, but there are two well recognised exceptions to this rule, viz., where the enactment has expressly or impliedly taken away that right with retrospective effect, (2) where the court to which the appeal lay at the commencement of the proceedings stands abolished. Similar was the rule laid down in 1943 Federal Court 24. Reliance in both these cases was placed on the following observation of the Privy Council in *the Colonial Sugar Refining Co. Ltd.* v. *Irving* (supra)..

"To deprive a suitor in a pending action of an appeal to a superior tribunal which belonged to him as of right is a very different thing from regulating procedure. In principle, their Lordships see no difference between abolishing an appeal altogether and transferring the appeal to a new tribunal. In either case there is an interference with existing rights contrary to the well-known general principle that statutes are not to be held

(5) 57 In App. 421=A.I.R. 1927 P.C. 242.

(6) 1957 S.C.R. 488—(A.I.R. 1957 S.C. 540).

(7) 1905 A.C. 369.

to act retrospectively unless a clear intention to that effect is manifested."

The matter was further elucidated in the *New India Insurance Co. Ltd.* v. *Smt. Shanti Misra,* (8), wherein the effect of the newly added provisions of the Motor Vehicles Act which ousted the jurisdiction of the Civil Courts to entertain claims arising out of the motor accidents came up for consideration and after discussing the various implications of the provisions of Section 110-F, which ousted the jurisdiction of the Civil Courts, it was ruled that the suits which had been instituted prior to the constitution of the Claims Tribunal remained unaffected and had to proceed to disposal in Civil Courts.

(13) The learned counsel for the assessee on the other hand, strongly relied on 1979 S.C. 1352. In that case the earlier forum where the appeal lay had been abolished. So, it was held that the appeal was competent in the new forum. The observations made in this decision have to be understood in the context of the situation available here. This case, therefore, cannot be relied upon to contend that in case of a change of forum by the Amending Act, pending cases would also stand transferred even if the earlier forum where the proceedings were instituted is still available. The other decisions relied upon by him were 1927 Privy Council 242; 1955 Rajasthan 203; 1976 S.C. 2610; 1979 Jammu & Kashmir 69.

(14) In *Delhi Cloth Mills case* (supra) no right of appeal existed to the Privy Council when the judgment was rendered by the High Court. It was held that the later amendment would not confer such a right. In 1976 Supreme Court again there was no question before the Court similar to the one debated here. The general observations regarding the procedural law are well known and on their basis no support can be sought for the proposition canvassed by the assessee. In the Jammu and Kashmir case reliance has been placed on 1975 S.C. 1843, but that case does not warrant at all the conclusion which was arrived at on its basis by the learned Judges. In Rajasthan case, succession to the *jagir* opened in September, 1952 and prior thereto Section VII(3) stood repealed by the Constitution of India on January 26, 1950. So, no proceedings were pending when the forum was changed and the observations made in paragraph 11 are in the nature of *obiter dicta.*

(8) A.I.R. 1976 S.C. 237.

(15) The learned counsel for the assessee also relied on various High Court Decisions in Commissioner of Income tax *vs.* Om Sons (1) Commissioner of Income Tax *vs.* Pearey Lal Radhey Raman (2), Ganesh Dass Ram Gopal *vs.* Inspecting Assistant Commissioner of Income Tax and another (3), Commissioner of Income Tax Orissa *vs.* Dhadhi Sahy (4), Radhey Sham Aggarwalia *vs.* Commissioner of Income Tax and others (5). Reliance in all these decisions has been placed on the Supreme Court decisions referred to above. As none of the Supreme Court decisions supports the view that the judicial authority once seized of the matter would be divested of the same by the later amendment of the law taking away its jurisdiction, they all have to be dissented from.

(16) For the reasons recorded above, the question is answered in the negative, that is against the assessee and in favour of the Revenue. No costs.

(1) 116 I.T.R. 215.
(2) 117 I.T.R. 319.
(3) 142 I.T.R. 101.
(4) 105 I.T.R. 56.
(5) 113 I.T.R. 56.

H. S. B.

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