(1980) 10 MP CK 0004

Madhya Pradesh High Court

Case No: Miscellaneous Civil Case No. 537 of 1974

Commissioner of Income Tax		APPELLANT
	Vs	
Raipur Provincial Engineering Co.		RESPONDENT

Date of Decision: Oct. 10, 1980

Acts Referred:

- Income Tax Act, 1961 - Section 256(2)

Citation: (1983) 14 TAXMAN 327

Hon'ble Judges: G.P. Singh, C.J; Faizanuddin, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This is an application u/s 256(2) of the income tax Act, 1961 (''the Act''), by the department. The Tribunal by its order dated 27-11-1973, set aside the penalty of rupees one lakh which was imposed on the assessee in respect of the assessment year 1963-64, on the ground that the assessment itself had been set aside by the AAC. The learned counsel for the applicant submits that the Tribunal instead of deciding the appeal against penalty should have adjourned it and heard it along with the appeal of the department against the order of the AAC setting aside the assessment. This question was not raised before the Tribunal at the time when the appeal against the penalty was heard. The question cannot, therefore, be said to arise out of the Tribunal''s order.

2. The application is dismissed, but without any order as to costs.