

(1998) 229 ITR 120**Supreme Court of India**

Case No: Civil Appeal No. 1745 of 1984 (Appeal from the judgment and order dated March 12, 1981, of the Gujarat High Court in Income-tax Reference No. 149 of 1976)

COMMISSIONER OF
Income Tax

APPELLANT

Vs

SERCON PVT. LTD.

RESPONDENT

Date of Decision: April 2, 1997

Acts Referred:

- Income Tax Act, 1961 - Section 256(1), 256(2)

Citation: (1998) 229 ITR 120

Hon'ble Judges: K. S. PARIPOORNAN, S. S. AHMAD JJ.

Bench: Division Bench

Advocate: T. C. Sharma and B. K. Prasad, for the Appellant; S. Ganesh and Ms. A. K. Verma, Advocates, for JBD and Co., for the respondent., for the Respondent

Final Decision: Dismissed

Judgement

The income tax Appellate Tribunal referred the following question of law for the decision of the High Court of Gujarat (see [\[1982\] 136 ITR 881, 883](#))

"Whether the Tribunal was justified in law in holding that the land in question bearing final Plot No. 522-C sold by the assessee was not agricultural land and that the excess of Rs. 10,65,243 was liable to be taxed as capital gains even when the plot in question at the time of its sale was entered in the Government revenue records as agricultural land ?"

It is evident that the Appellate Tribunal held that the land in question is not agricultural land. But the High Court has taken a different view and has held that the Tribunal erred in holding that the land sold by the assessee - the subject-matter of this proceeding - is not agricultural land.

In order to decide the matter fairly and satisfactorily the appellate order passed by the Tribunal is a necessary document. So also in all the decisions rendered by the High Court on a reference u/s 256(1) or u/s 256(2) of the Act, the statement of the case which forms the sheet-anchor of the proceedings is a necessary document. We find that both these proceedings do not form part of the paper book. This is not an isolated case in which this has happened in this court. We are of the view that in all income tax and allied tax matters which come up before this court, it is essential for the appellant or the petitioner, as the case may be, to file the order rendered by the Appellate Tribunal in the appeal and also the statement of the case in cases where such a statement of the case is drawn up. If the decision is rendered by this court without looking into such documents, it will be unsatisfactory. It is high time that this factor is taken note of by the parties concerned and also by the Registry. We direct the Registry to insist that in all tax matters, coming to this court ultimately on a reference, the order passed by the Tribunal in the appeal and also the statement of the case should be produced by the appellant or the petitioner. In case the appellant or the petitioner has not produced it and if the respondent has with him such records, the Registry may in appropriate cases direct him to produce the same.

Counsel for the Revenue prays for time to file the order of the Appellate Tribunal and also the statement of the case. The appeal was filed nearly 13 years ago and the Revenue had sufficient time to file these documents. Why the Revenue has not so far filed these documents, which should be referred to at the time of hearing, is not clear. In any view of the matter, we are not inclined to dismiss the appeal on this technical ground. We grant time to the Revenue to produce the relevant documents within four weeks. List the matter after four weeks.

The Registrar General will take note of the directions given hereinabove and direct the Registry to see that the above orders are procured by the Registry in all cases coming under reference jurisdiction in tax matters.