

(5) After hearing the learned counsel for the parties. I am of the view that the petitioners are entitled to have their land evaluated to the same rate which was given to other claimants who approached this court. The true and correct interpretation of Section 28-A of the Land Acquisition Act in my considered view would be that other owners who did not seek any reference under Section 18 of the Land Acquisition Act would, on re-determination, be entitled to the same rates which other land owners have got either from the court of District Judge or from the High Court or from the Supreme Court. The use of the words in Section 28-A "award of the court" does not and cannot possibly mean the award of the court of the District Judge. The award of the court would be that award which is final, whether finality is attained at the stage of District Judge or High Court or Supreme Court. The award of the District Judge merges into the award of the High Court. If the view of the Collector is to be upheld, it would create an anomalous position. In a particular case, the amount awarded by the District Judge may be reduced by the High Court. Can in such a situation be contended by the claimants that they are entitled to the compensation awarded by the District Judge which is a higher one and not the compensation which is awarded by this court. The answer would certainly be in the negative.

(6) For the reasons recorded above, the revision petitions are allowed and the petitioners are held entitled to the grant of compensation at the rate of Rs. 31,000 per acre. They would also be entitled to the grant of statutory benefits of the amended provisions of Section 23(2) and 28 of the Land Acquisition Act, as was done by this Court in Regular First Appeal No. 700 of 1981, decided on 23rd July, 1986. The parties are left to bear their own costs throughout.

J.S.T.

Before :—A. P. Chowdhri & J. B. Garg, JJ.

INCOME-TAX OFFICER, KHANNA, DISTT. LUDHIANA,
—Appellant.

versus

ANIL KUMAR,—Respondent.

Criminal Appeal No. 332-DBA of 1987

1st October, 1991.

Income-tax Act, 1961—S. 276-B—Prosecution of partnership concern for non-compliance of Section—Punishment imposed contains substantive sentence to extent of six months as well—Whether firm liable to punishment of sentence.

Income-tax Officer, Khanna, Distt. Ludhiana v. Anil Kumar 345
(J. B. Garg, J.)

Held, that a firm maintained legal entity for purposes of tax laws and obviously the contravention of the requirement of Section 276-B of the Income-tax Act attracted prosecution as well as punishment.

(Para 4)

Appeal from the order of the Court of Shri P. C. Singal, Addl. Sessions Judge, Ludhiana dated 11th November, 1986 reversing that of Shri Ganpati Sharma, Chief Judicial Magistrate, Ludhiana dated 5th September, 1985, convicting & sentencing the accused, i.e. composing a fine of Rs. 12,000.

Charge Under Section : 276-B, Income Tax Act, 1961.

Order : Acquittal.

Complaint Case No. 102/3 of 1983.

It has been prayed in the grounds of appeal that appeal may kindly be accepted, the judgment of the learned Addl. Sessions Judge, Ludhiana dated 11th January, 1986 be set aside and the accused-respondent be awarded punishment accordance with law.

A. K. Mittal, Advocate, for the Appellant.

Somesh Ojha, Advocate, for the Respondent.

JUDGMENT

J. B. Garg, J.

Anil Kumar, a partner of M/s Ashok Steel Trading Corporation, G. T. Road, Khanna, was prosecuted under section 276-B of the Income Tax Act, 1961 and he was convicted for the aforesaid offence and sentenced to pay a fine of Rs. 12,000 by Chief Judicial Magistrate, Ludhiana, on 5th September, 1985. In Appeal, the conviction was set aside by Shri P. C. Singal, Additional Sessions Judge, Ludhiana, on the plea that the firm was not a juristic person and the sentence of imprisonment which was also mandatory could not be imposed upon it. Aggrieved against it, the present appeal has been preferred.

(2) Briefly, the facts as alleged are that M/s Ashok Steel Trading Corporation, G.T. Road Khanna, paid interest to the tune of Rs. 89832.40 to M/s Amar Ginning and Oil Mills, Khanna but they did not deduct the income tax nor deposited it as required under Section 276-B of the Income Tax Act, 1961. This omission

came to notice of the Income Tax Officer of Ludhiana while examining the record for the assessment year 1980-81 and for the financial year 1979-80.

(3) The question of fact that M/s Amar Ginning and Oil Mills, Khanna were disbursed a sum of Rs. 89832.40 as interest by M/s Ashok Steel Trading Corporation, G.T. Road Khanna is not disputed. The only question which requires decision here is whether M/s Ashok Steel Trading Corporation which in fact is a partnership concern could be prosecuted and punishment imposed notwithstanding the fact that the sentence prescribed under Section 276-B of the Income Tax Act, 1961 contains imposition of the substantive sentence as well as to the extent of six months.

(4) On behalf of the accused attention has been invited to *Modi Industries Ltd. v. B. C. Goel* (1), where, the delinquent was a Corporation and it was observed that it being not a juristic person could not be awarded the punishment of imprisonment. In the case, now in hand, the delinquent concern was a firm which is a person "as defined in section 2(31) of the Income Tax Act." As observed in *A. D. Jayveerapandia Nandar & Co. and others v. Income Tax Officer, Central Circle v. Madras* (2), there is no doubt regarding the criminal liability. On behalf of the Union of India it has been here argued that the provisions of Section 276-B of the Income Tax Act, 1961, as amended with effect from 1st October, 1975, has been contravened. In *Rishikesh Balkishandas and others v. I. D. Manchanda Income Tax Officer, Distt. II (I) D. Block, New Delhi* (3), as has been referred to by the learned counsel for the Union of India, it was stressed that a firm maintained legal entity for purposes of tax laws and obviously the contravention of the requirement of Section 276-B of the Income Tax Act attracted prosecution as well as punishment. The conclusion is that the appeal is accepted and the judgment of the learned Additional Sessions Judge, Ludhiana, is hereby set aside. The accused is convicted under section 276-B of the Income Tax Act, 1961 and the quantum of fine of Rs. 12,000 imposed by the learned trial Court on 5th September, 1985 is hereby affirmed.

(1) (1983) 144 I.T.R. 496.

(2) (1975) 101 I.T.R. 390.

(3) (1987) 167 I.T.R. 49.