

PETITIONER:
EMPIRE STORES

Vs.

RESPONDENT:
ITO

DATE OF JUDGMENT 02/04/1993

BENCH:
VERMA, JAGDISH SARAN (J)
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VERMA, JAGDISH SARAN (J)
AGRAWAL, S.C. (J)

CITATION:
1994 SCC Supl. (1) 635

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. The submission of learned counsel for the petitioner is that the change made in the law has no retrospective application in order to permit the authority to rely on the larger period of limitation prescribed under the new law. On this basis he submits that in the present case the notice of reassessment given to the petitioner is invalid because it is based on the application of the larger period of limitation prescribed under the new law. The High Court has dismissed the petitioner's writ petition on the ground that the points raised by the petitioner are available to him for being raised by the petitioner before the assessing authority.

2. The above submission of learned counsel for the petitioner is based on certain facts which are to be determined in the first instance by the assessing authority. The petitioner can place his case before the assessing authority in response to the notice issued to the petitioner and await the decision of the assessing authority on that point. It appears that even under the old law, in a certain situation the objection of limitation may not arise if the facts necessary to attract that provision providing for a larger limitation are found in the present case. In case the assessing authority has already completed the exercise it would be open to the petitioner to raise that point in appeal on the basis of facts on which he claims that the benefit of the larger period of limitation under the old law is not available in the present case to reopen the assessment for the assessment years 1981-82 in the petitioner's case and that the larger period under the new law is not available because the same applies prospectively. This point remains open to the petitioner for being canvassed in the appropriate proceedings. With these observations, the special leave petition is dismissed.

Court Master
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JUDIS