

The Principle of Res judicata

How far Applicable to Proceedings Under the Income - Tax Act ?

As per S.11 of the Civil Procedure Code, no Court shall try any suit or issue between the same parties; which has been heard and finally decided. The doctrine of res judicata rests on the principle that one should not be vexed twice for the same cause and that there should be finality of litigation.

It is well settled that the principle of res judicata or estoppel by record, which applies to decisions of Civil Courts, has no application to decisions of IT Authorities. As a general rule, the principle of res judicata is not applicable to decisions of IT Authorities and it is for this reason that an assessment for a particular year is final and conclusive between the parties only in relation to that year. Decisions given in assessment for an earlier year are not binding either on the assessee or the Department in a subsequent year.

But this rule is subject to limitations. The first limitation is that there should be finality and certainty in all litigations including those arising out of income-tax proceedings and an earlier decision on the same question cannot be changed in the absence of following circumstances:

- (i) **The previous decision is not arrived at after due enquiry,**
- (ii) **The previous decision is arbitrary; or**
- (iii) **If fresh facts having a bearing on the earlier decision, come to light.**

The other limitation is that the effect of revising a decision in a subsequent year should not lead injustice and the court must always be anxious to avoid injustice to the assessee.

2. As an exception to the general rule the principle of Res judicata would apply to proceedings under the IT Act regarding questions relating to assessment which do not vary with the income every year but depend on the nature of the property or question on which the rights of the parties to be taxed, are based. For example, a decision on the question whether a trust is a charitable trust or not, which has nothing to do with the fluctuations in the income year after year, will operate as res judicata and the same question cannot be re-agitated subsequently. Similarly the status of an assessee cannot be changed from year to year. The method of accounting regularly followed by an assessee and rate of gross profit accepted by the Department, also fall in this category.

3. Some of the important decisions of the Supreme Court and various High Courts, supporting the aforesaid proposition, are as follows:

(a). **Radhasoami Satsang Vs C.I.T, 193 I.T.R; p.321(SC)**

It was held in this case that in the absence of any material change justifying the Department to take a different view from that taken in earlier proceedings, it is not permissible to take different and contradictory stand in a subsequent year with regard to the exemption earlier granted.

NB: The Note of the Supreme Court that this decision is confined to the facts of the case, applies to the peculiar facts prevailing in the case, that is, the facts relevant to exemption of the assessee; and not to the applicability of the principle of res judicata in such cases.

(b). **Parshuram Pottery Works Co. Ltd Vs I.T.O 106 I.T.R; p.1(SC).**

The relevant observations of the Supreme Court in this case are as follows:

“At the same time, we have to bear in mind that the policy of law is that there must be a point of finality in all legal proceedings, that stale issues should not be reactivated beyond a particular stage

and that lapse of time must induce repose in and set at rest Judicial and quasi-judicial controversies as it must in other spheres of human activity."

The aforesaid observations have been relied upon and followed in the aforesaid case of Radhasoami Satsang as the court has observed that the assessments are certainly quasi-judicial and these "observations" equally apply (to them).

(c). **Joint Family of Udayan Chinubhai etc. Vs C.I.T, 63 I.T.R; p.416(SC).**

It has been held by the Supreme Court in this case that the principle of res judicata will apply to an order u/s 25A (1) of the 1922 Act corresponding to S.171(3) of the 1961 Act.

(d). **H. A Shah and Co. Vs C.I.T, 30 I.T.R; p.618 (Bom)**

In this case the court has held that though as a general rule the principle of res judicata is not applicable to IT Authorities, this rule is subject to limitations, for there should be finality and certainty in all litigations including litigation arising out of the Income-tax Act and an earlier decision on the same question cannot be reopened if that decision is not arbitrary or perverse, if it had been arrived at after due inquiry, if no fresh facts are placed before the Tribunal giving the later decision, and if the Tribunal giving the earlier decision has taken into consideration all material evidence.

(e). **Tejmal Bhojraj Vs C.I.T, 22 I.T.R; p.208(Nag).**

The court, in this case, has held that though the principle of res judicata does not apply to income-tax proceedings, previous findings may not be arbitrarily departed from.

It was further held that in the absence of the following circumstances:

- (i) the previous decision is not arrived at after due enquiry,
 - (ii) the previous decision is arbitrary; or
 - (iii) if fresh facts come to light which on investigation entitle the officer to come to a conclusion different from the one previously reached ;
- I.T.O cannot arbitrarily depart from the finding reached after the enquiry by his predecessor in office, simply on the ground that the succeeding officer does not agree with the preceding officer's findings.

(f). **C.I.T Vs Harishchandra Gupta 132 I.T.R; p.799(Ori)**

The Court held that though the doctrine of res judicata is not strictly applicable to assessment proceedings, yet in regard to status, there can be no scope for treating the status of the same assessee differently in different years unless something new happens.

Thus where the assessee had declared year after year his intention to be assessed as H.U.F, by declaring that status in the returns, and the I.T.O had himself adopted that status for A.Y 70 - 71, it was held that, in the absence of any material to show that the assessee's status had undergone a change the I.T.O would not be justified in adopting a different status in the succeeding A.Y.s.

(g). **C.I.T Vs P.Khrishna Warriar, 208 I.T.R; p. 823(Ker).**

It was held in this case that the principle of res judicata would apply to proceedings under the Act regarding questions relating to assessment which do not vary with the income every year but depend on the nature of the property or question on which the rights of parties to be taxed, are based.

(h). **C.I.T Vs Hindustan Motors Ltd, 192 I.T.R; p.619(Cal).**

The Court held that it is true that there is no res judicata but there must be some substantial ground for one officer to differ from the view taken by another officer in an earlier A.Y.

(i). **Sardar Keharsingh Vs C.I.T, 195 I.T.R; p.769(Raj).**

It was held in this case that rule of res judicata cannot apply to taxation proceedings, but the general rule is subject to the qualification that a finding reached in the assessment proceedings of an earlier year, after due enquiry, would not be reopened in a subsequent year, if no fresh facts are found in the subsequent year.

(j). **C.I.T Vs Dalmiya Dadri Cement Ltd., 77 I.T.R; p.410 (P and H).**

Where the decision of I.T.O, on a particular point year after year, was not questioned and it was also not shown that earlier decisions were either arbitrary or perverse or that by the time the A. Y in question; fresh facts had come into existence and came before the IT authorities, it was held that this was not a proper case in which the Revenue should have gone back on its approach for well over a decade.

(k). **C.I.T Vs Shri Agastyar Trust, 149 I.T.R; p.609(Mad).**

The court in this case, held that it is well established that a decision on the question whether certain trust is a charitable trust or not, which has nothing to do with the fluctuations in the income-year-after-year, will operate as res judicata and the same question cannot be re-agitated subsequently.

(l). **M.A. Namazie Endowment Vs C.I.T, 174 I.T.R; p.58,73(Mad).**

It is held in this case that though the Assessing Officer is not bound by the rule of res judicata or estoppel by record, he can reopen a question previously decided only if fresh facts come to light on investigation that would entitle him to come to a conclusion different from the one previously reached or if the earlier decision had been rendered without taking into consideration material evidence.

(m). **C.I.T Vs D.M.Bhatia Industry, 222 I.T.R; p.482(MP).**

In this case the M. P High Court has laid down that a view taken uniformly should not be changed without sufficient reasons.

(n). **C.I.T Vs Jagdishlal and sons, 157 I.T.R; p. 620(All).**

In this case the court has laid down that the rule of res judicata is applicable in dealing with the order recognizing partition made in an earlier year.

(o). **C.I.T Vs Kamla Town Trust, 198 I.T.R; p.191(All).**

In this case the court has laid down that even erroneous decision operates as res judicata between parties.

(p). **C.I.T Vs Belpahar Refractories Ltd, 128 I.T.R; p.610(Ori).**

In this case the Orissa High Court has laid down that an earlier decision on the same question cannot be reopened unless that decision is arbitrary or perverse or arrived at without due enquiry.

(q). **Other Decisions**

There are many other judgments supporting the aforesaid principle of resjudicata in this type of cases. Some of them are as follows:

- (i) C.I.T Vs Velimalai Rubber Co. Ltd. 48 Taxman; p.356 (Ker).
- (ii) Taraben Ramanbhai Patel Vs I.T.O, 215 I.T.R; p.323 (Guj).
- (iii) C.I.T Vs National Bearing Co. Ltd, 208 I.T.R; p.872 (Raj).

(iv) Dhansiram Agarwalla Vs C.I.T, 81 Taxman, p.1 (Gauhati).

(v) Karondas Ranchhoddass Vs C.I.T, 83 I.T.R; p.1 (Bom).

4. The Principle of res judicata also applies where change of earlier decision leads to injustice, loss of advantage or loss of some benefit.

The courts have laid down that the principle of res judicata is also applicable in cases where the effect of revising the earlier decision leads to injustice, loss of advantage or loss of some benefit.

The Bombay High Court in the case of H. A Shah and Co. Vs C.I.T, 30 I.T.R; p.618; has this to say in this respect:

“ There is also a further limitation, namely, that the effect of revising a decision in a subsequent year should not lead to injustice and the court must always be anxious to avoid injustice to the assessee. For instance, if the court is satisfied that by depriving the assessee of his rights under the later decision, in an earlier year, the assessee lost an important advantage or lost some benefit which he could have got under the Income-tax Act, then the Court may take the view that departing from the earlier decision leads to injustice or denial of justice and the court may prevent an Income-tax Authority from doing something which would be unjust and inequitable.”

Similarly the Orissa High Court in the case of C.I.T Vs Belpahar Refractories Ltd, 128 I.T.R p.610 has made the following observations on this aspect

“ The rule of res judicata does not apply to assessment proceedings but there are two exceptions to the rule, namely, an earlier decision on the same question cannot be reopened unless that decision is arbitrary or perverse or arrived at without due enquiry. The second limitation is that the effect of revising the earlier decision should not lead to injustice and the court may prevent an assessing authority from doing something which would be unjust and inequitable.”

5. Conclusion

From the aforesaid decisions of the Supreme Court and various High Courts, it becomes quite clear that though in general the principle of res judicata is not applicable to IT proceedings, yet this principle will apply even to IT proceedings if the questions relating to assessment do not vary with the income every year but relate to matters such as (i) status of the assessee, (ii) method of accounting regularly followed by the assessee, (iii) charitable nature of a trust, (iv) partition of H.U.F and (v) gross profit in a business, etc.

In addition, this principle also applies to cases where the effect of revising a decision in subsequent year leads to injustice, loss of an important advantage or loss of some benefit, on the part of the assessee.

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