Hoosein Kasam Dada (India) Ltd. v. State of Madhya Pradesh

Whether amendment imposing pre-deposit condition for appeal applies retrospectively and affects vested right of appeal

Date of Order: February 23, 1953
Case Law No: GIB-SC-1953-01
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CASE DESCRIPTION / SUMMARY

Facts :
The assessee filed a sales tax return in 1947 and assessment proceedings were initiated under the Central Provinces and Berar Sales Tax Act, 1947. During pendency, Section 22(1) was amended in 1949 requiring full payment of assessed tax as a condition for admitting an appeal. After assessment in 1950, the assessee filed an appeal without depositing tax. Authorities rejected the appeal applying the amended provision, and the High Court upheld the rejection.

Court Decision:
The Supreme Court held that the right of appeal is a substantive and vested right accruing when proceedings are initiated. The amendment imposing a pre-deposit condition materially restricted this right and was not merely procedural. Since the amendment did not expressly or by necessary implication operate retrospectively, it could not apply to proceedings initiated prior to the amendment. The Court directed that the appeal be admitted without requiring deposit of tax.

Cases Referred:

- *Colonial Sugar Refining Co. Ltd. v. Irving*
- *Nana bin Aba v. Sheku bin Andu*
- *Delhi Cloth and General Mills Co. Ltd. v. Income-tax Commissioner*
- *Kirpa Singh v. Rasaldar Ajaipal Singh*
- *Sardar Ali v. Dalimuddin*
- *Badruddin Abdul Rahim v. Sitaram Vinayak Apte*
- *In re Vasudeva Samiar*
- *Ram Singha v. Shankar Dayal*
- *Radhakisan v. Shridhar*
- *Gordhan Das v. Governor-General in Council*

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- *Nagendra Nath Bose v. Mon Mohan Singha Roy*
- *Janardan Reddy v. State*
- *Ganpat Rai v. Agarwal Chamber of Commerce Ltd.*

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