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Section 375 - Procedure when assessee claims identical question of law is pending before High Court or Supreme Court.

(1) Irrespective of anything contained in this Act, where an assessee claims that—

(a) any question of law arising in his case for a tax year pending before the Assessing Officer or any appellate authority (such case being herein referred to as the relevant case) is identical with a question of law arising in his case for another tax year (such case being herein referred to as the other case); and

(b) such question of law for such other case is pending—

(i) before the High Court on a reference under section 256 or on an appeal under section 260A of the Income-tax Act, 1961; or

(ii) before the Supreme Court on a reference under section 257 or on an appeal under section 261 of the Income-tax Act, 1961; or

(iii) before the High Court on an appeal made under section 365; or

(iv) before the Supreme Court on appeal made under section 367; or

(v) in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court,

he may furnish a declaration to the Assessing Officer or the appellate authority, in such form and manner, as may be prescribed, that if the Assessing Officer or the appellate authority agrees to apply in the relevant case the final decision on the question of law in the other case, he shall not raise such question of law in the relevant case before any appellate authority or in a subsequent appeal before a higher forum.

(2) Where a declaration under sub-section (1) is furnished to any appellate authority, the appellate authority shall––

(a) call for a report from the Assessing Officer on the correctness of the claim made by the assessee; and

(b) allow the Assessing Officer an opportunity of being heard in the matter, if such request is made by him.

(3) The Assessing Officer or the appellate authority, may, by an order in writing,—

(a) admit the claim of the assessee if he or it is satisfied that the question of law arising in the relevant case is identical with the question of law in the other case; or

(b) reject the claim if he or it is not so satisfied.

(4) An order under sub-section (3) shall be final and shall not be called in question in any proceeding by way of appeal or revision under this Act.

(5) Where a claim is admitted under sub-section (3),—

(a) the Assessing Officer or the appellate authority, may make an order disposing of the relevant case without awaiting the final decision on the question of law in the other case; and

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(b) the assessee shall not be entitled to raise, in relation to the relevant case, such question of law in appeal before any appellate authority or in any subsequent appeal before a higher forum.

(6) When the decision on the question of law in the other case becomes final, it shall be applied to the relevant case and the Assessing Officer or the appellate authority, shall, if necessary, amend the order referred to in sub-section 5(a) in conformity with such decision.

(7) For the purposes of this section,—

(a) “appellate authority” means the Joint Commissioner (Appeals) or the Commissioner (Appeals) or the Appellate Tribunal;

(b) “case”, in relation to an assessee, means any proceeding under this Act for the assessment of the total income of the assessee or for the imposition of any penalty or fine on him; and

(c) “subsequent appeal before a higher forum” means the appeal before the High Court under section 365 or appeal before the Supreme Court under section 367 or in a Special Leave Petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court.

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