

CIVIL REFERENCE.*Before Mr. Justice Harrison and Mr. Justice Campbell.*

BANJI LAL—Petitioner

versus

THE CROWN—Respondent.

Civil Reference No. 25 of 1924.

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Feb. 17.

Indian Income Tax Act, XI of 1922, section 66 (2)—Application to the Commissioner for reference—made more than one month after the date of the order giving rise to it—Competency of Commissioner to make a reference to the High Court.

Held, that a delay of over one month in presenting an application to the Commissioner under section 66 (2) of the Indian Income Tax Act, after the order had been passed which gave rise to that application, robs the Commissioner of all jurisdiction, and a reference by him to the High Court under the section is therefore not competent.

Murli Dhar v. Secretary of State (Civil Mis. No. 497 of 1923) (1), followed.

Case referred by Hon'ble Mr. E. R. Abbott, Chief Commissioner, Delhi, with his No. 5202, dated 11th September 1924, for orders of the High Court.

MOTI SAGAR, for Petitioner.

DALIP SINGH, Government Advocate, for Respondent.

The order of the Court was delivered by—

HARRISON J.—This is a reference, under section 66 (2) of the Income Tax Act of 1922, made by the Chief Commissioner of Delhi to this Court.

Mr. Dalip Singh takes a preliminary objection that the reference is not competent inasmuch as the application upon which it is based was presented more than a month after the order had been passed which gave rise to that application, the actual dates being the 11th of July and the 25th of August 1924, respectively. In addition to several other points

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the question of whether this bars the reference has also been referred by the Chief Commissioner, though he says he does not wish to press it unless it is in itself fatal.

It is clear in our opinion that the delay in presenting the application robs the Chief Commissioner of all jurisdiction, and therefore the reference made by him under section 66 (2) was not competent. This view has been taken by a Division Bench of this Court in Civil Mis. No. 497 of 1923*, and there is ample authority of the English Courts to the same effect. The Indian Income Tax Act reproduces the law of England on this point, and we find that the preliminary objection is fatal to the determination of the reference on its merits, and we, therefore, answer the reference accordingly.

The costs of the respondents will be paid by the petitioner.

Reference rejected.

**The order of Abdul Raouf and Harrison, JJ., dated 12th March 1924, in Civil Mis. No. 497 of 1923, referred to above.*

This is an application which purports to be made under section 66 (3) of the Income Tax Act in consequence of an alleged refusal by the Income Tax Commissioner to refer a question of law to this Court. Whether or not there was such a refusal, the application itself under section 66 (2) was made two months after the order of the Assistant Commissioner, dated 12th December 1923, under section 31 of the Income Tax Act. It was therefore clearly barred, as is the further remedy under section 66 (3) of the Income Tax Act.

We dismiss the application with costs.
