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direction is given under s. 8(2), there is nothing in that provision which prevents rectification of that order.

By sub-s. (4) of s. 8 of the Investigation Act, the findings recorded by the Commission in cases or points referred to them are made final in all assessment or reassessment proceedings. The Act has, by sub-s. (2) of s. 8 removed the bar of limitation which arose by s. 25 of the Income Tax Act. It was competent therefore to the Income Tax Officer to reopen the assessment proceedings notwithstanding any lapse of time and the previous order of assessment did not operate as a bar to such reassessment. The High Court was therefore in our judgment right in recording its answers on the three questions submitted by the Commissioner of Income Tax. In that view, the appeal fails and is dismissed with costs.

Appeal dismissed.

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September 2.

THE BHOPAL SUGAR INDUSTRIES LTD.

v.

THE INCOME-TAX OFFICER, BHOPAL

(S. K. DAS, M. HIDAYATULLAH, K. C. DAS GUPTA, J. C. SHAH AND N. RAJAGOPALA AYYANGAR, JJ.)

Directions by superior Tribunals—If could be refused to be carried out—Principles of administration of justice.

The Income-tax Appellate Tribunal in the exercise of its appellate jurisdiction gave certain directions to the respondent, an Income-tax Officer, in connection with the ascertainment of the market value of sugarcane grown by the appellant at their farm and used by them for the manufacture of sugar. The appellant asked the Income-tax Officer to give effect to the said order and directions of the Tribunal but was informed that no relief could be given. Thus the Income-tax Officer failed to carry out the directions of the Tribunal.

Held, that the refusal to carry out the directions which a superior Tribunal had given in exercise of its appellate powers was in effect a denial of justice and was furthermore destructive

of one of the basic principles in the administration of justice based as it is in this country on a hierarchy of courts; and the result of such refusal would lead to chaos in the administration of justice.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 407 of 1956.

Appeal from the judgment and order dated February 14, 1956, of the former Judicial Commissioner's Court, Bhopal, in Misc. Civil Case No. 24 of 1955.

Sanat P. Mehta and *S. N. Andley*, for the appellant.

K. N. Rajagopal Sastri and *D. Gupta*, for the respondent.

1960. September 2. The Judgment of the Court was delivered by

S. K. DAS J.—This is an appeal on a certificate under Art. 133 of the Constitution. The short question for decision is whether the learned Judicial Commissioner of Bhopal rightly dismissed a petition under Art. 226 of the Constitution made by the Bhopal Sugar Industries, Limited, hereinafter refered to as the appellant company, praying for the issue of an appropriate order or direction in the nature of a writ of mandamus to compel the Income-tax Officer, Bhopal, respondent herein, to carry out certain directions given by the Income-tax Appellate Tribunal, Bombay, to the said officer in an appeal preferred by the appellant company from an order of assessment made against it by the respondent. *S. K. Das J.*

The relevant facts are these. The appellant company carries on the business of manufacturing and selling sugar in various grades and quantities. It has its factory at Sehore which was formerly in the Bhopal State and is now situate in the State of Madhya Pradesh. It purchased sugar-cane from local cultivators and also grew its own sugar-cane in farms situate in that State, such sugar-cane being used for its manufacture of sugar. During the year of account ending on September 30, 1950, the appellant company purchased 7,72,217 maunds of sugar-cane from local

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cultivators at various purchasing centres, 14 in number, situate at a distance of about 8 to 22 miles from its factory. The price paid was Rs. 1-4-6 per maund, that being the price fixed by the then State of Bhopal. The average cost of transporting the sugar-cane from the various centres to the factory was stated to be Rs. 0-4-9 per maund. During the same period the appellant company grew its own sugar-cane to the extent of 6,78,490 maunds and brought the same along with the cultivators' sugar-cane to its factory for manufacturing sugar. For the sugar-cane grown on its own farms the appellant company claimed Rs. 1-13-0 per maund as its market value (including Rs. 0-4-9 as average transport charges), the total market value for 6,78,490 maunds thus coming to Rs. 12,29,763. The appellant company deducted from the aforesaid market value a sum of Rs. 9,77,772 as agricultural expenses, namely, expenses of harvesting, loading, etc., and claimed the balance of Rs. 2,51,991 as agricultural income to be deducted from the computation of its total income for the assessment year 1951-52. The respondent accepted the figure of Rs. 9,77,772 as agricultural expenses but computed the market value of 6,78,490 maunds of sugar-cane grown on the appellant company's own farms at Rs. 9,33,000 at the rate of Rs. 1-6-0 per maund ; thus according to this computation there was a loss of Rs. 44,772 and the respondent held in his assessment order that the appellant company was not entitled to claim any deduction of agricultural income for the assessment year.

The appellant company then appealed to the Appellate Assistant Commissioner, Jubbalpore, who determined the market value of the sugar-cane grown on the appellant company's own farms at Rs. 10,07,132 at the rate of Rs. 1-7-9 per maund. This resulted in an agricultural income of Rs. 29,360, which the Appellate Assistant Commissioner allowed to be deducted from the total income of the appellant company.

Not satisfied with the order of the Appellate Assistant Commissioner, the appellant company preferred

an appeal to the Income-tax Appellate Tribunal, Bombay, and claimed that the market value of the sugar-cane grown on its farms should be Rs. 1-13-0 per maund and not Rs. 1-7-9. There was no dispute before the Tribunal as to the agricultural expenses, and the question which the Tribunal had to decide related to the market value of 6,78,490 maunds of sugar-cane grown on the appellant company's own farms. After referring to r. 23 of the Income-tax Rules and certain other matters, the Tribunal said:

"We are, therefore, inclined to think that 'market' within the meaning of rule 23 is not the centres but the factory where the assessee company manufactures sugar. This being the position in order to find out the market value, we have to add the transport charges from the centres to the factory. We were told that the transport charges amounted to Rs. 0-4-9 per maund. We have not been able to verify this figure. In our opinion, therefore, the sugar-cane produced by the assessee company in its own farms has to be valued at Rs. 1-4-6 per maund plus the average transport charges per maund from the centres to the factory".

The Tribunal then gave the following directions to the respondent:

"We would, therefore, direct the Income-tax Officer to ascertain the average transport charges per maund from the centres to the factory and to add to it the rate of Rs. 1-4-6 per mand and on that basis work out the market value of the sugar-cane grown by the assessee company in its own farms. If the market value comes to more than Rs. 1-7-9 per maund further relief to the necessary extent will be given by the Income-tax Officer. If, however, the market value is less than Rs. 1-7-9 the appeal must fail".

The Commissioner of Income-tax then applied to the Tribunal for a reference under s. 66(1) of the Income-tax Act, stating that a question of law arose out of the Tribunal's order in as much as the Tribunal was not justified, in the opinion of the Department, to add average transport charges to the price of

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Rs. 1-4-6 per maund of sugar-cane grown by the appellant company. This application was, however, withdrawn on August 4, 1954. The order of the Tribunal thus became final and was binding on the parties.

In the meantime, the appellant company moved the respondent to give effect to the directions of the Tribunal. After some abortive correspondence between the respondent and his higher officers on one side and the appellant company on the other, the respondent informed the appellant company on March 24, 1955, that no relief could be given to it. In his letter of that date the respondent said:

"In this connection your attention is invited to the order of the Tribunal to ascertain the cost of transportation of the sugar-cane from the farms to the factory which could only be considered in working out the market value of the agricultural produce. As is evident from your account books you are found to have debited a sum of Rs. 59,116 only out of the total transportation expenses to your agricultural produce account. Naturally, therefore, only the expenses so incurred by you can be considered in working out the market value of the agricultural sugar-cane. By adding the transportation charges to the valuation of sugar-cane at Rs. 1/4/6 on 6,78,490 maunds of agricultural produce the total cost of the agricultural produce would be Rs. 9,28,431. Against this by the order of the Appellate Assistant Commissioner the value of the farm cane was taken at Rs. 10,07,132 and thus the excess allowance of Rs. 78,701 has already been allowed to you. Thus as the market value of the agricultural produce does not in any case exceed Rs. 1-7-9 as held by the Appellate Assistant Commissioner the result of the Tribunal's order as per their finding given in para 8 of the order results in no relief being given to you."

It is worthy of note here that while the Tribunal had directed the respondent to ascertain the average transport charges from the *centres to the factory*, the respondent referred to the cost of transportation from the *farms to the factory*. Clearly enough, the respondent misread the direction of the Tribunal and failed

to carry it out. He proceeded on a basis which was in contravention of the direction of the Tribunal.

In these circumstances, the appellant company moved the Judicial Commissioner, Bhopal, then exercising the powers of a High Court for that area, for the issue of a writ to compel the respondent to carry out the directions given by the Tribunal. The learned Judicial Commissioner found in express terms that the respondent had acted arbitrarily and in clear violation of the directions given by the Tribunal; in other words, he found that the respondent had disregarded the order of the Tribunal, failed to carry out his duty according to law and had acted illegally. Having found this, the learned Judicial Commissioner went on to examine the correctness or otherwise of the order of the Tribunal and found that the Tribunal went wrong in not treating the centres as 'markets' within the meaning of r. 23 of the Income-tax Rules. He then came to the conclusion that in view of the error committed by the Tribunal, there was no manifest injustice as a result of the order of the respondent; accordingly, he dismissed the application for the issue of a writ made by the appellant company.

We think that the learned Judicial Commissioner was clearly in error in holding that no manifest injustice resulted from the order of the respondent conveyed in his letter dated March 24, 1955. By that order the respondent virtually refused to carry out the directions which a superior tribunal had given to him in exercise of its appellate powers in respect of an order of assessment made by him. Such refusal is in effect a denial of justice, and is furthermore destructive of one of the basic principles in the administration of justice based as it is in this country on a hierarchy of courts. If a subordinate tribunal refuses to carry out directions given to it by a superior tribunal in the exercise of its appellate powers, the result will be chaos in the administration of justice and we have indeed found it very difficult to appreciate the process of reasoning by which the learned Judicial Commissioner while roundly condemning the respondent for refusing to carry out the directions of the superior

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tribunal, yet held that no manifest injustice resulted from such refusal.

It must be remembered that the order of the Tribunal dated April 22, 1954, was not under challenge before the Judicial Commissioner. That order had become final and binding on the parties, and the respondent could not question it in any way. As a matter of fact the Commissioner of Income-tax had made an application for a reference, which application was subsequently withdrawn. The Judicial Commissioner was not sitting in appeal over the Tribunal and we do not think that in the circumstances of this case it was open to him to say that the order of the Tribunal was wrong and, therefore, there was no injustice in disregarding that order. As we have said earlier, such a view is destructive of one of the basic principles of the administration of justice.

In fairness to him it must be stated that learned counsel for the respondent did not attempt to support the judgment of the Judicial Commissioner on the ground that no manifest injustice resulted from the refusal of the respondent to carry out the directions of a superior tribunal. He conceded that even if the order of the Tribunal was wrong, a subordinate and inferior tribunal could not disregard it; he readily recognised the sanctity and importance of the basic principle that a subordinate tribunal must carry out the directions of a superior tribunal. He argued, however, that the order of the Tribunal was unintelligible and the respondent did his best to understand it according to his light. This argument advanced on behalf of the respondent appears to us to be somewhat disingenuous. We find no difficulty in understanding the order of the Tribunal; it directed the respondent "to ascertain the average transport charges per maund from the centres to the factory and add to it the rate of Rs. 1-4-6 per maund of sugar-cane". The direction is clear and unambiguous. The respondent instead of ascertaining the average transport charges per maund from the centres to the factory, referred to the transport charges from the farms to the factory and on that footing disregarded the directions of the Tribunal; for

the respondent to say thereafter that the order of the Tribunal was not intelligible betrays a regrettable lack of candour. We must, therefore, reject the argument of learned counsel for the respondent.

The learned Judicial Commissioner referred to three decisions in support of the proposition that a direction or order in the nature of a writ of mandamus cannot be claimed as of right, nor need such a writ issue for every omission or irregularity; *Bimal Chand* v. *Chairman, Jiagunj Azimgunj Municipality* (1); *Gram Panchayat, Vidul of Vidul* v. *Multi Purpose Co-operative Society of Vidul* (2) and *Messrs. Senairam Doongarmall* v. *Commr. of Income Tax, Assam* (3). In the view which we have expressed, namely, that by the impugned order the respondent failed to carry out a legal duty imposed on him and such failure was destructive of a basic principle of justice, a writ of mandamus should issue *ex debito justiciae* to compel the respondent to carry out the directions given to him by the Income-tax Appellate Tribunal, Bombay, and it is unnecessary to consider the decisions referred to above except merely to state that in none of them arose any question of condoning a refusal by an inferior tribunal to carry out the directions given to that tribunal by a superior tribunal in the undoubted exercise of its appellate powers, on the ground that the order of the superior tribunal was wrong.

We must, therefore, allow this appeal, set aside the judgment and order of the Judicial Commissioner dated February 14, 1956 and issue an order directing the respondent to carry out the directions given by the Income-tax Appellate Tribunal, Bombay, in its judgment and order dated April 22, 1954. The appellant company will be entitled to its costs in the proceedings before the Judicial Commissioner and in this Court.

Appeal allowed.

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(1) A.I.R. 1954 Cal 285. (2) A.I.R. 1954 Nag. 82.
(3) A.I.R. 1955 Assam 201.