
(1978) 03 AHC CK 0062

In the Allahabad High Court

Case No : Income-tax Reference No. 549 of 1974

Addl. Commissioner of Income Tax

APPELLANT

Vs

Ram Narain Kishan Gopal

RESPONDENT

Date of Decision : 06-03-1978

Acts Referred:

Income Tax Act, 1961 — Section 30, 31, 32, 33, 34

Citation : (1979) 116 ITR 776

Hon'ble Judges : Satish Chandra, J;K.C. Agrawal, J

Bench : Division Bench

Advocate : Ashok Gupta, for the Appellant; H.S. Joshi and S.V. Goswami, for the Respondent

Final Decision : Dismissed

Judgement

Satish Chandra, J.—The assessee deals in sale of stone, timber and timber goods. For the assessment year 1970-71, the ITO disallowed a sum of Rs. 22,964 which represented purchases made by the assessee for its stock-in-trade but which were made in cash although the individual payments exceeded Rs. 2,500. It was held that Section 40A(3) of the Act applied and the assessee has failed to come within any of the exceptions of Rule 6DD of the Rules. On appeal, the AAC held that the assessee has been able to establish the genuineness of the payments as well as the identity of the persons to whom the payments were made and he, therefore, allowed the appeal and sustained the disallowance only to the extent of Rs. 2,726. The department went up in appeal to the Tribunal. The Tribunal held that the word "expenditure" occurring in Section 40A did not include the amounts laid out for purchases of stock-in-trade but it had reference only to deductions that could be made from the gross profits computed after taking into account the sales and purchases only. In this view, it was held that the disallowance made by the ITO were not justified.

2. At the instance of the department, the Tribunal has referred the following question of law for our opinion :

"Whether, on the facts and in the circumstances of the case and on a proper interpretation of Section 40A of the I.T. Act, 1961, the purchase price of stock-in-trade by an assessee can be said to constitute an item of expenditure, the deductibility of which would be restricted by the provisions of Section 40A(3) ?"

3. In U.P. Hardware Store Vs. Commissioner of Income Tax, , a Division Bench of this court has held that there was no justification for accepting the plea that the word "expenditure" used in Section 40A(3) should be restricted to overhead expenses enumerated in Sections 30 to 43A. The word "expenditure" was of wide import. It would also cover the expenses to be taken into account while determining the gross profit. The gross-profit is determined by the difference between the opening stock and the purchases on the one hand and the closing stock and the sales on the other. The payments made for purchases would also be covered by the word "expenditure" and such payments could be disallowed if they are made in cash in sums exceeding Rs. 2,500.

4. We have heard learned counsel for the assessee at some length but we are not satisfied that this case needs reconsideration by this court. The decision is binding on us. In view of that decision, we answer the question referred to us in the affirmative, in favour of the department and against the assessee. The Commissioner will be entitled to costs which are assessed at Rs. 200 (Rupees two hundred) only.