

(2002) 02 BOM CK 0064

In the Bombay High Court

Case No : Income-tax Appeal No's. 1210, 1272, 1273 and 1326 of 2000

Anusayaben A. Doshi, Anantrai A. Doshi, Leena V. Doshi and APPELLANT
Vikram A. Doshi

Vs

Joint Commissioner of Income Tax and Others RESPONDENT

Date of Decision : 26-02-2002

Acts Referred:

Income Tax Act, 1961 — Section 254

Citation : (2002) 177 CTR 218 : (2002) 256 ITR 685

Hon'ble Judges : V.C. Daga, J; J.P. Devadhar, J

Bench : Division Bench

Advocate : J.D. Mistry and A.K. Jasani, instructed by N.S. Joshi, for the Appellant; R.V. Desai, P.S. Jetly and D.M. Chatterjee, instructed by H.D. Rathod, for the Respondent

Judgement

1. Heard rival contentions. Perused record and proceedings.
2. The parties are different but are from the same group. The issue is identical. So a single order will dispose of all the four appeals.
3. Having heard the parties at length, it is clear that learned counsel for the appellant in all the cases had advanced substantive as well as alternate contentions before the Income Tax Appellate Tribunal ("the Tribunal" for short). It appears that the alternate submission found favour with the Tribunal. The Tribunal, therefore, chose to accept the peak credit and added it to the total income of the appellant. This has been done by the Tribunal in all these appeals as such all these appeals more or less involve common questions based on an identical order of the Tribunal. Therefore, the facts, for deciding all these appeals are drawn from Income Tax Appeal No. 1326 of 2000.
4. Turning to the facts of Income Tax Appeal No. 1326 of 2000, in para. 19 of the impugned order of the Tribunal, the submissions advanced on behalf of the appellants are recorded. The findings recorded by the Tribunal are to be found in

para. 20 of the impugned order which are the subject-matter of attack in this appeal.

5. Mere glance at the impugned order would show that no reasons are to be found in the entire order of the Tribunal as to why the alternate contention of the appellant/assessee was accepted by the Tribunal, without rejecting much less discussing substantive contentions raised by the assessee. No reasons are to be found in support of the findings recorded by the Tribunal while accepting the alternate submission of the assessee.

6. It is needless to emphasise that the order or judgment should be self-explanatory. It should not keep the higher court guessing for reasons. Reasons provide a live-link between conclusion and evidence. That vital link is the safeguard against arbitrariness, passion and prejudice. Reason is a manifestation of the mind of the court or Tribunal. It is a tool for judging the validity of the order. It gives an opportunity to the higher court to see whether the impugned order is based on reasons and that the reasons are based on adequate legal and relevant material. Giving reasons is an essential element of administration of justice. A right to reasons is, therefore, an indispensable part of a sound system of judicial review. Reasoned decision is not only for the purpose of showing that the citizen is receiving justice, but also a valid discipline for the authority itself. Therefore, stating of reasons is one of the essentials of justice. In this case, the appellate authority being the final authority on the facts was obliged to appreciate the evidence, consider the reasoning of the primary or lower authority and assign its own reasons as to why it disagreed with the reasons and findings of the primary or lower authority. Unless adequate reasons are given, merely because it is an appellate authority it cannot brush aside the reasoning or finding recorded by the lower authority.

7. Reading all the impugned orders together would prima facie show that there is no appreciation of the substantive contention of the appellant by the appellate court/Tribunal which is the final court for finding of fact.

8. It will not be out of place to refer by way of an example, para. 6 of the impugned order, impugned in Income Tax Appeal No. 1272 of 2000 filed by Shri Anantraï Doshi, wherein the Tribunal, while dealing with the contentions has observed that a similar issue had arisen in the case of Shri Vikram Doshi. Additions were sought to be justified in the case of Anantraï Doshi on the basis of facts drawn from the case of Vikram Doshi. We fail to understand how the appeal filed by Anantraï Doshi can be decided on the basis of facts drawn from the case of Vikram Doshi. The facts of any other different case, i.e., case of Vikram Doshi, could not have been relied upon by the Tribunal in the absence of any similar material in that regard or without bringing it to the notice of the appellant. No doubt, all these cases were from the common group but that by itself would not justify consideration of unconnected facts drawn from some other cases.

9. Learned counsel for the Revenue is not in a position to support the findings

and the observations made by the Tribunal. He is unable to show why the alternate submission was accepted and the substantive main submission advanced by the appellant before the Tribunal was brushed aside without giving any reason. All these cases appear to have been considered at the same time and alternate contentions were accepted without showing any reason for rejecting the main contention advanced by the appellants.

10. In some cases the Tribunal tried to give some reasons but we do not think that those reasons are adequate and sufficient to brush aside the main contention raised by the appellant. The Tribunal was not justified in proceeding to accept the alternate submission without dealing with and rejecting the substantive submission. Having examined the orders in the light of the above facts, we are satisfied that the impugned orders, impugned in these appeals, are without reasons, consequently, the same are in breach of the principles of natural justice.

11. We, in the above backdrop, are of the opinion that the interests of justice would be met by setting aside the impugned orders of the Tribunal impugned in all these appeals to the extent they are challenged in the respective appeals.

12. So far as other questions unrelated to the above question, dealing with gifts or other items are concerned, the view taken by the Tribunal appears to be a reasonable and possible view. Neither do we propose to upset those findings nor any such case has been made out by the appellant. So also, the appellants are not very serious in pressing these questions. No other contentions are raised. No other questions are pressed during the course of hearing.

13. In the above circumstances, without going into the merits or demerits of the findings recorded by the Tribunal, we set aside the impugned orders to the extent they deal with unproved loans and remit all the matters back to the Tribunal for hearing afresh and to deal with and decide this limited issue pertaining to question No. A-1 (the only issue raised and canvassed) in accordance with law after following the principles of natural justice.

14. In the result, all these appeals stand disposed of in terms of this order with no order as to costs.