(1989) 02 CAL CK 0028

In the Calcutta High Court

Case No : Income-tax Reference No. 223 of 1974

Basantipur Tea Co. (P.) Ltd. APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 21-02-1989

Acts Referred:

Income Tax Act, 1961 — Section 56

Citation : (1989) 80 CTR 67 : (1989) 180 ITR 261 : (1989) 45 TAXMAN 204

Hon'ble Judges : Suhas Chandra Sen, J;Bhagabati Prasad Banerjee, J

Bench : Division Bench

Advocate : None, for the Appellant;R.D. Misra, for the Respondent

Judgement

S.C. Sen, J.—This case was adjourned on an earlier occasion. A notice was also served on Himatsingka & Co. but in spite of that, none has appeared even today. The Tribunal has referred the following question of law u/s 256(1) of the Income Tax Act, 1961 ("the Act"), to this court:

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that out of the total unexplained cash credits of Rs. 4,19,300 appearing in the company''s business books for the relevant accounting period, the sum of Rs. 1,50,000 credited on the first day of its existence on incorporation represented its income from ''other sources'' and not from ''business'' ?"

2. The assessment year involved in this case is the assessment year 1966-67 for which the accounting period was August 10, 1964, to April 30, 1965. The findings of the Tribunal are that the sum of Rs. 1,50,000 credited in the books of the company on the first day of its incorporation represented the assessee''s income from other sources and not from business. That this sum of Rs. 1,50,000 was includible as income was not disputed. The Tribunal has stated that it would be not unreasonable to infer from the facts of the case that the amount credited on the first day of the accounting year of the assessee-company was a credit item.

If it was an income from business source even on the first day of the incorporation, it was for the assessee to explain how he earned that income. In the absence of such evidence or explanation, the Tribunal was right in treating the income as income from other sources.

3. Accordingly, the question is answered in the affirmative and in favour of the Revenue.

4. There will be no order as to costs.

Bhagabati Prasad Banerjee, J.

5. I agree.

