
(1956) 04 AHC CK 0025
In the Allahabad High Court
Case No : Civil Misc. Case No. 35 of 1952

Chhaoni Lal Pragdas

APPELLANT

Vs

Commr. of Income Tax

RESPONDENT

Date of Decision : 11-04-1956

Acts Referred:

Income Tax Act, 1922 — Section 13, 66

Citation : AIR 1957 All 65

Hon'ble Judges : Upadhya, J;Agarwala, J

Bench : Division Bench

Advocate : Brij Lal Gupta, for the Appellant; J. Swarup and S.C. Das, for the Respondent

Final Decision : Dismissed

Judgement

Upadhya, J.—This is an application u/s 66 (2), Income Tax Act against the refusal by the Income Tax Appellate Tribunal to state a case for the opinion of this Court.

2. The assessee-applicant owns a "sarrafa" business and deals in gold and silver. His account showed the value of opening and closing stocks at a uniform fixed rate by adopting Rs. 50 per hundred tolas of silver and Rs. 70 for each hundred tolas (sic--each tola?) of gold. The Income Tax Officer found that this method of valuing the stocks was not proper and accordingly he valued the opening and closing stocks according to the market rates prevailing at the time.

The Income Tax Officer added Rs. 2,661 to the profits disclosed by the profit and loss account of the assessee for determining his income from this source. This decision was affirmed in appeal by the Appellate Assistant Commissioner and by the Appellate Tribunal. In his application u/s 66(1) the applicant contended that there was no specific finding that the assessee's income could not be properly deduced from the method of accounting regularly employed by him and the addition, therefore, was not justified in law. The Income Tax Appellate Tribunal refused to make a reference on the question proposed relating to this contention.

3. The other item of dispute is an addition of Rs. 6,518 in determining the assessee's total income. This amount was credited in the assessee's accounts in the name of Baijnath Ram Sewak who is the father-in-law of one of the members of the assessee. The Income Tax Officer called for an explanation as to the nature and source of this money and required the assessee to prove that it belonged to the person in whose name it was entered.

The depositor is shown as one Lala Baijnath, but he was not produced before the Income Tax Officer. The explanation given was that this amount had been advanced by Lala Baijnath for the purchase of grains, but the Income Tax Officer found that no such purchase was in fact, effected. The Income Tax Officer further found that the assessee had transferred a sum of Rs. 10,000 to the Kalpi grain shop in which he was a partner after receiving this deposit, and the inference that appears to have been drawn is that the assessee required money for remittance to his Kalpi grain shop and introduced this amount in the name of Lala Baijnath.

The explanation given did not satisfy the Income Tax Officer and he found that the assessee failed to prove that the amount belonged to Lala Baijnath. In the circumstances the addition was upheld by the Appellate Assistant Commissioner and by the Tribunal, it is contended that there was no material to warrant a finding that this amount of Rs. 6,518 represented the assessee's income. The Income Tax Appellate Tribunal took the view on a request for a reference being made to this Court that no question of law arose and that the material on which the finding was based was amply set out in the order passed.

4. In our opinion, so far as the sum of Rs. 6,518 is concerned, no question of law, in fact, arises. On the facts and in the circumstances of the case it is not possible to say that there was no material on which the Tribunal could uphold the addition of this amount to determine the assessee's total income. The refusal by the Tribunal to refer the question relating to this matter was, therefore, justified.

5. Relating to the other question of stock valuation and the applicability of the proviso to Section 13, I.T. Act, learned counsel for the applicant contends that though the Income Tax Officer found as a fact that the stocks had not been properly valued, they did not record a finding that the income, profits and gains of the assessee could not be properly deduced for that reason.

It is contended that the system followed by the assessee was uniform and if he valued the opening stock by estimating the value of silver at Rs. 50 per hundred tolas and that of gold at Rs. 70 per tola he did the same when valuing the closing stock. This, it is contended, could not affect the profit and in the absence of the finding that such Valuation of the stocks made the accounts unacceptable, the assessment could not be maintained.

6. Learned counsel has cited several authorities. The first case cited is " AIR 1930 56 (Privy Council) In this case the rule that was laid down was that when the opening and closing stocks of a business are both undervalued the real

profits of the company of a particular year cannot be ascertained by merely raiding the valuation of the closing stocks without taking into consideration the similar under-valuation of the opening stocks.

The Income Tax authorities in that case had re-valued the closing stocks which in their opinion were undervalued. Their Lordships took the view that this could not enable them to find the taxable profits for the year in the absence of a correct re-valuation of the opening stocks.

This case, in our opinion, is no authority for the proposition that if the assessee choses to value his stocks both at the commencement of the year and that at the close of the year, not at the cost price nor at the market value prevailing at the time when the stocks are taken but at an arbitrary rate, the valuation has to be accepted simply because the Income Tax Officer omitted to make a mention that this was not a proper method of accounting.

7. The next case referred to us is a decision of the Supreme Court in " Chainrup Sampatram Vs. Commissioner of Income Tax, West Bengal, . The assessee in this case was a bullion dealer in Calcutta, some silver bars had been sent from Calcutta to Bikaner then situate in an Indian State. The assessee's explanation that they had been sold to the partners was not accepted, and the Income Tax authorities treated the silver bars as forming part of the closing stocks of the assesses.

It was contended that since the bars were not at Calcutta but at Bikaner they could not be taken into consideration in determining the profits at Calcutta. The question was as to whether Bikaner was the situs where the profits accrued. In discussing the matter the learned Chief Justice observed as follows :

"The true purpose of crediting the value of unsold stock is to balance the cost of those goods entered on the other side of the account at the time of their purchase, so that the cancelling out of the entries relating to the same stock from both sides of the account would leave only the trans actions on which there have been actual sales to the course of the year showing the profit or loss actually realised on the year's trading."

Learned counsel relies on this passage and argues that the purpose of crediting the value of stocks being what the learned Chief Justice has laid down, it could not effect the profits of the assessee if the stocks were valued at an even rate, though arbitrarily, both at the beginning and at the close of the year.

We have given this observation quoted above our careful consideration, but we are unable to see anything in these observations which would help the assessee in this case. The pronouncement does not go to the length of enunciating that the valuation of stocks may be made arbitrarily regardless of well accepted principles of accountancy, namely of valuing them either at cost or at the market price prevailing at the time when the stocks are taken.

8. The third and the last case relied upon by learned counsel is COMMISSIONER

OF Income Tax AND EXCESS PROFITS TAX, MADRAS Vs. MESSRS. CHARI AND RAM, MADURA., . In this case the assessee had valued some items of the stock at cost price and some other items at the market price prevailing at the time when the stock was taken. This system of valuing the stock had been uniformly adopted by the assessee and the Court took the view that this being the accepted basis of valuation of stocks, and there being nothing to suggest that it was improper or patently wrong the assessee's valuation should be accepted by the Department.

Now in this case, the stocks were not valued arbitrarily. The assessee's profits are the aggregate of the profits that he makes on all items in stock or bought and sold or left in stock. If each item is valued at cost or at the market rate prevailing at the time, it cannot be contended that the valuation of that item is wrong or without a proper basis.

The fact that all the items in the stock are not valued in the same manner would not make any difference and the view taken, therefore, by the Court was that where items in the stocks were valued either at cost or at the market rate prevailing at the time, the total of the value of all these items was the correct valuation of the stocks and if such a system had been accepted by the department in the assessee's case in the earlier years and there was nothing to suggest that the valuation was wrong, the value as shown in the assessee's account, of the stocks should have been accepted.

This case, to our mind, does not lay down that even if the items in the stock are valued arbitrarily, and not either at cost or at the market rate prevailing, the mere fact that in the earlier years the Income Tax Officer failed to notice this defect, or to raise any objection would justify an assumption that the profits of the assessee can be properly deduced from this method of accounting. In fact, we feel that it is no method of accounting at all.

The accounts of a business must represent the correct state of affairs. Goods appearing in the stock must either be valued at the price paid by the assessee for acquiring them or if that be not practicable or the assessee for convenience does not desire to do so, they must be valued at the rate prevailing at the time when the stocks are taken.

We are unable to see how by putting an arbitrary value on the stocks the assessee may claim that he is showing in his accounts the correct state of affairs. The value of the stocks would be obviously wrong. The values of the opening and closing stocks are essential factors in determining the profits of the year and wrong and arbitrary valuation, cannot, therefore, be accepted as a system or method of accounting that may be adopted by an assessee.

9. The fact that in his order the Income Tax Officer did not expressly state that because of this defect in, the valuation of the stocks, the profits were not properly deductible and the proviso to Section 13 was applicable, is not very material. The fact that he discussed this defect and made an addition to the

profits shown by the assessee indicates amply that the Income Tax Officer did not accept the profits shown by the accounts and found it necessary to determine the profits on the basis indicated in his order, namely, of arriving at the profits by revaluing the stocks.

No significance, therefore, can be attached to the absence of an express mention by the Income Tax Officer that the profits could not be properly deduced from the method of accounting adopted by the assessee. The Income Tax Officer has given reasons for making the addition, and his order shows the basis on which he arrived at the taxable profits.

Besides, the Income Tax Officer did not dispute the purchase or sales or expenses. What he found to be wrong was the value given to the opening and closing stocks. He revalued the stocks on a proper basis. The action taken by him can only be attributed to the powers vested in him under the proviso to Section 13, and we are of opinion that in determining the taxable profits in that manner he was exercising these powers. In the circumstances we do not think any question of law arises. The Appellate Tribunal cannot be held to be wrong in refusing to refer the case.

10. The application, therefore, fails and is dismissed with costs, which we assess at Rs. 100/-.