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(2012) 02 KAR CK 0075

In the Karnataka High Court

Case No : ITA No. 785 of 2006 (A.Y. 1988-89 to 1998-99)

CIT and Another APPELLANT

Vs

H.B. Raviraj RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Citation : (2012) 02 KAR CK 0075

Hon'ble Judges : Ravi Malimath, J;N. Kumar, J

Bench : Division Bench

Advocate : E.I. Sanmathi and Indra Kumar, for the Appellant; A. Shankar and M. Lava, for the Respondent

Final Decision : Dismissed

Judgement

1. This appeal is preferred by the Revenue challenging the order passed by the Tribunal granting relief to the assessee. The substantial question of law that arises for consideration in this appeal is,

Whether deleting an addition as undisclosed income of the assessee being the income admitted by the assessee in the return filed after the due date of filing of return and the search conducted by the Department when they have already paid advance tax in respect of the alleged undisclosed income.

In fact, this court dealing with the very same question, in the case of an assessee who was a member of the very same family to which the assessee belongs in the case of CIT v. Late H.R. Basavaraj (2011) 339 ITR 63 (Karn) had held that the same income cannot be considered as undisclosed income in the block assessment. In fact, this court in the case of Commissioner of Income Tax and Another Vs. H.E. Mynuddin Pasha, has held that the moment advance tax is paid, the taxable income at that point of time stands disclosed to the revenue by the assessee. When the creditors pay interest and deduct TDS and show said payment in their books of accounts as well as returns filed, the said income due to the assessee stands disclosed to the Department. Similarly, when the partnership firm pay remuneration in terms of the agreement to its partner and reflects in the books of accounts as well as in the returns filed to the department well in time, said income stands disclosed to the department. Therefore, merely because the recipient of the income did not file the returns and he filed only after the search makes no difference.

3. In that view of the matter, the substantial question of law is answered in favour of the assessee and against the revenue. This appeal is dismissed.

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