

(1999) 11 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : ITC No. 5 of 1999 11th May, 1999

COMMISSIONER OF INCOME TAX

APPELLANT

Vs

ANUPINDER SINGH

RESPONDENT

Date of Decision : 05-11-1999

Acts Referred:

Income Tax Act, 1961 — Section 139, 143, 148, 215, 217

Citation : (1999) 155 CTR 442

Hon'ble Judges : N.K. Agrawal, J;N. K. Agrawal, J

Bench : Division Bench

Judgement

N.K. AGRAWAL, J.

These are 9 petitions under s. 256(2) of the IT Act, 1961 (for short, the "Act"), by the CIT, Chandigarh, seeking a direction to the Tribunal, Chandigarh to refer the following question of law to this Court for opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that amended provision of s. 139(8) and sub-s. (6) of s. 215 of the IT Act, 1961, inserted by the Tax Laws (Amendment) Act, 1984, are not applicable to assessment year prior to asst. yr. 1985-86 even in cases where return is filed and assessment is completed for the first time after the amendment ?"

2. The question, though identical in all the petitions, arises from the cases of three assessees, namely, Anupindei Singh, Harjit Inder Singh and NirmaIjit Katir, for three assessment years, viz., 1982-83, 1983-84 and 1984-85.

3. The aforementioned three assessees received certain money by way of interest on enhanced compensation for the acquisition of their agricultural and under the order of a Division Bench of this Court dt. 7th Oct., 1988. The amount of interest was received by them for three assessment years, viz., 1982-83, 1983-84 and 1984-86 on 1st May 1990. The AO issued notices to them under s. 148 of the Act on 10th Jan., 1991. Assessments were framed by the AO under s.

143(1) on the declared income. Tax had already been paid by the assessee. Anupinder Singh and, therefore, no demand of tax was created for any assessment year. "In the case of Harjit Inder Singh, the demand of tax amounting to Rs. 3,000 for the asst. yr. 1982-83 only was created. In the case of Nirmaljit Kaur, demand of tax at Rs. 74 for the asst. yr. 1982-83 and at Rs. 400 for the asst. yr. 1984-85 was created. Tax had been fully paid prior to assessment in respect of the other assessment years.

4. Interest under s. 139(8) of the Act was charged by the AO at the time of assessment on the ground that the returns were furnished by the assessee after the specified date. Interest under s. 217 was also charged giving the reason that the assessee had not paid advance tax on the estimate of assessable income. The assessee went in appeal before the Dy. CIT(A), who quashed the orders whereby interest had been charged. The Tribunal upheld the appellate orders.

5. The Tribunal found that the assessee was having income below the taxable limit for the relevant assessment years. Their income became taxable on the receipt of interest on the enhanced compensation. They received income by way of interest on 24th July, 1989, and they voluntarily filed returns of income for the three assessment years on 18th May, 1990. Income as declared by the assessee was accepted. By the time the assessee had received interest money from the Government, the period prescribed for filing the return under s. 139(4) of the Act for the asst. yr. 1982-83, 1983-84 and 1984-85 was over. The Tribunal found that, in these circumstances, the charging of interest was not valid.

6. In the light of the facts arising from the order of the Tribunal, it is clear that the Tribunal correctly found that the assessee was not liable to pay interest. They voluntarily filed returns after the order of the High Court granting interest on the enhanced compensation. They also paid tax on that income. They could not, anticipate enhancement of corporation and grant of interest thereon prior to the order of the High Court. Therefore, no question of law arises.

In the result, the petitioners are dismissed in limine.

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