

(2007) 11 DEL CK 0027

In the Delhi High Court

Commissioner of Income Tax

APPELLANT

Vs

Bimla Goel

RESPONDENT

Date of Decision : 29-11-2007

Acts Referred:

Citation : (2007) 11 DEL CK 0027

Hon'ble Judges : Madan B. Lokur, J; Dr. S. Muralidhar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The revenue has preferred this appeal u/s 260A of the Income Tax Act, 1961 ("Act") against an order dated 4-2-2005 passed by the Income Tax Appellate Tribunal, Bench E\\Delhi ("Tribunal") in IT(SS)A No. 180/Del/2001 for the block period 1-4-1987 to 2-12-1997.

2. The revenue has urged three issues. The first concerns an addition of Rs. 19,81,000 made by the assessing officer on account of peak undisclosed investment. This Court, by its order dated 30-3-2007, held that the said addition was rightly deleted by the Tribunal and Therefore no substantial question of law arises in that regard.

3. The second issue relates to the addition of the sums of Rs. 80,000 and Rs. 1,71,000 made by the assessing officer on account of the alleged failure by the assessed to explain the sources of these amounts. The facts relevant to this issue are that during the course of a search conducted u/s 132 of the Act at the residence of the assessed on 2-12-1997, a document was seized which inter alias contained entries of amounts of Rs. 80,000 and Rs. 1,71,000 in the name of Babita and Babu respectively. The Explanation offered by the assessed was that he was not keeping good health and, Therefore, had kept some of his cash with Babita and Smt. Bimla Goel (whose nick name was Babu) for his emergency medical treatment. Although this Explanation was not accepted by the assessing officer, the Commissioner (Appeals) accepted it and deleted the addition. The

Tribunal concurred with the view taken by the Commissioner (Appeals) and held that nothing had been brought on record by the revenue to show that the Explanation offered by the assessed was false.

4. After considering the submissions of learned Counsel for the revenue as well as the orders under appeal, we too are of the view that the Explanation offered by the assessed cannot be said to be improbable. There is no perversity in the conclusion arrived at by both the Commissioner (Appeals) as well as the Tribunal. No substantial question-of law arises.

5. The third issue pertains to the addition made by the assessing officer in the sum of Rs. 6 lakhs on account of undisclosed investment. An entry was found in the seized documents showing the amount of Rs. 6 lakhs with the description "Pehle Ke". The Explanation offered by the assessed was that this entry represented the approximate receivables of an earlier period ending 31-3-1997. It was also pointed out by the assessed that the loans and advances given by him and his wife as on 31-3-1997 were to an extent of Rs. 5,85,060. However the assessing officer rejected this Explanation and held that the assessed had failed to reconcile the figure of Rs. 6 lakhs with the receivables appearing in the balance sheet.

6. The, Commissioner (Appeals) reversed the finding of the assessing officer and held that in the absence of any corroborative evidence it could not be said that the document recovered represented the suppressed income of the assessee. There was also nothing to show that the transaction related to the year under reference. Concurring with the view expressed by the Commissioner (Appeals), the Tribunal held that the inference drawn by the assessing officer that the said entry represented unexplained investment was untenable since nothing was brought on record during the course of the search or even thereafter to substantiate the said conclusion.

7. Here again we find that concurrent views have been expressed by both the Commissioner (Appeals) as well as the Tribunal on an appreciation of the evidence. We do not find anything in those orders which can be termed as perverse or contrary to the record.

No substantial question of law arises. Dismissed.