(2004) 08 P&H CK 0160

In the Punjab And Haryana At Chandigarh

Case No : Income-tax Appeal No''s. 185 and 191 of 2002

Commissioner of Income Tax APPELLANT

Vs

Darshan Singh RESPONDENT

Date of Decision : 09-08-2004

Acts Referred:
Income Tax Act, 1961 — Section 147, 148, 269L, 55A

Citation : (2005) 194 CTR 242 : (2005) 272 ITR 650

Hon'ble Judges : N.K. Sud, J;A.K. Goel, J

Bench : Division Bench

Advocate : N.L. Sharda, for the Appellant; S.K. Mukhi, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Sud, J.—This order will dispose of I. T. A. Nos. 185 and 191 of 2002 raising a common question of law and fact. Since the arguments have been advanced in I. T. A. No. 185 of 2002, the facts are taken from that.

2. The Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short the "Tribunal"), has quashed the proceedings u/s 147 of the Income Tax Act, 1961 (for short "the Act"), initiated on the basis of the report of the Valuation Officer determining the cost of construction at a figure higher than what was disclosed by the assessee. For this purpose, the Tribunal placed reliance on the decision of this court in Commissioner of Income Tax Vs. Usha Mathur, and various other decisions of different Benches of the Tribunal taking the same view.

3. We have heard counsel for the parties and have perused the orders on record.

4. Counsel for the Revenue has not been able to controvert the factual position that the proceedings u/s 147 of the Act have been initiated solely on the report of the Valuation Officer. In this view of the matter, the proceedings u/s 147 of the Act are clearly not sustainable in view of the law laid down by this court in Commissioner of Income Tax Vs. Usha Mathur, . Since the decision of the Tribunal is in conformity with the view expressed by this court, no substantial question of

law arises for consideration by this court.

5. The matter can be viewed from another angle also. In Amiya Bala Paul Vs. Commissioner of Income Tax, Shillong, it has been held that the Departmental Valuation Officer cannot be called upon to give a report to the Assessing Officer under the Act except when a reference u/s 55A or Section 269L of the Act is made. The Assessing Officer, therefore, could not have obtained the report of the Departmental Valuation Officer for the purposes of determining the cost of construction. Thus, the report of the Departmental Valuation Officer was clearly invalid. If the said report is excluded from consideration, there is no material whatsoever warranting satisfaction on the part of the Assessing Officer about the escapement of income. Thus, the impugned notices cannot be sustained on this ground as well.

6. Accordingly, we find no merit in these appeals which are dismissed.