(2002) 04 RAJ CK 0061

In the Rajasthan High Court

Case No : IT Ref. No''s. 1 and 43 of 1998

Commissioner of Income Tax APPELLANT

Vs

Ishwardass Mutha RESPONDENT

Date of Decision : 07-04-2002

Acts Referred:
Income Tax Act, 1961 — Section 256(2)

Citation : (2004) 186 CTR 759 : (2004) 270 ITR 597

Hon'ble Judges : N.N. Mathur, J;D.N. Joshi, J

Bench : Division Bench

Advocate : Sandeep Bhandawat, for the Appellant;

Judgement

N.N. Mathur, J.—Both the reference applications u/s 256(2) of the IT Act, are at the instance of the Revenue from the order of the Tribunal, dt. 3rd Sept., 1997. The IT Ref. No. 43. 1998 pertains to asst. yr. 1981-82 and the IT Ref. No. 1/1998 pertains to asst. yr. 1982-83 and the same assessee namely, Ishwardass Mutha.

2. In D.B. IT Ref. No. 43/1998 it appears that the assessee Iswardass Mutha filed a return in the year 1983 showing the total income of Rs. 13,410 representing share from M/s Chogalal Bhimraj, a firm. This return was accepted u/s 143(1) on 19th March, 1983, in a routine manner. On the basis of certain incriminating documents seized in the course of search, the assessing authority opined that there was an escapement of income. Accordingly, he issued a notice u/s 148 and found that there was unexplained investment in the money-lending business during the period 24th May, 1980, to 1st Nov., 1980, aggregating to Rs. 78,000. Thus, an addition was made of Rs. 78,000 on account of alleged unexplained investment in the money-lending business. This was confirmed by the CIT(A). Before the Tribunal, it was contended that the AO has committed error in taking the debit side only, he could take into account the peak credit. This contention was accepted and worked out the peak credit of Rs. 48,000 out of the addition of Rs. 78,000 made by the AO. Thus, the Tribunal sustained the addition only to the extent of peak credit of Rs. 48,000.

3. In DB IT Ref. No. 1/1998 the AO added a sum of Rs. 50,000 as income from undisclosed sources as interest income. It was found that a sum of Rs. 50,000 was advanced to one M/s Ramrakh Poonamchand on 9th March, 1980, and 17th March, 1980, by the assessee. The addition was confirmed by the CIT(A). It is significant to notice at this stage that Dy. CIT(A) by order, dt. 4th Nov., 1992, deleted the addition of Rs. 50,000 for the asst. yr. 1980-81. In view of this fact, the Tribunal deleted the addition of Rs. 6,720, the same being consequential to the main addition of Rs. 50,000.

4. Having considered the facts of both the cases, we are satisfied that no referable question arises from the order "of the Tribunal. Both the reference applications being DB IT Ref. No. 43/1998 and DB IT Ref. No. 1/1998 are rejected.

