**(1977) 12 P&H CK 0003**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Income-tax Case No''s. 129 to 133 of 1977

Commissioner of Income Tax — APPELLANT

Vs

Jamna Auto Industries — RESPONDENT

**Date of Decision :** 06-12-1977

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

**Citation :** (1978) 112 ITR 421

**Hon'ble Judges :** M.R. Sharma, J;A.S. Bains, J

**Bench :** Division Bench

**Advocate :** D.N. Awasthy and B.K. Jhingan, for the Appellant; H.L. Sibal and S.C. Sibal, for the Respondent

## Judgement

M.R. Sharma, J.—This order will dispose of Income Tax Cases Nos. 129, 130, 131, 132 and 133 of 1977.

2. These are five applications by the revenue with a similar prayer that the Income Tax Appellate Tribunal be asked to refer certain questions of law to the hon''ble High Court for decision. For facility of reference, the facts of Income Tax Case No. 129 of 1977 may briefly be stated. The assessee is a partnership firm ; while examining the books of accounts of the assessee, the Income Tax Officer noticed the following cash credits in different names :

Rs.

1.

Seth Radha Kishandass Chainrai, Calcutta

15,000

2.

Seth Ramesh Chand Lachmandass, Calcutta

15,000

3.

M/s. Lakshmi Chand Parma Nand, Calcutta

15,000

4.

M/s. Ghanshamdass Uttam Chand, Calcutta

25,000

5.

Shri Dalip Singh

5,000

6.

Shri Harnam Singh

10,000

7.

Shri Narinder Kumar

5,500

8.

Shri Manjit Singh, Jammu

10,000

9.

Shri Narinder Verma

7,500

10.

Shri Narbada Parshad Tikmani, Calcutta

2,80,000

3,70,000

When called upon to explain the nature and source of these credits, the assessee was only able to produce a confirmatory letter from Narbada Parshad Tikmani at the initial stage. However, at a subsequent stage, on behalf of the assessee an issue was raised that one Bhupinder Singh, one of the partners of the firm, had made disclosure of investments in the names of 21 persona under the Finance Act, 1965. These persons had some surplus money, which they invested in this firm through these hundi shroffs. This matter was gone into by the Appellate

 

Assistant Commissioner, who held that the aforementioned funds found invested in the partnership firm actually belong to the 21 relations of Bhupinder Singh, who was, in turn, a partner of this firm and that this amount stood rightly explained. While giving this finding the Tribunal also noticed conflicts between the decisions of the Delhi High Court on the one hand and the Allahabad and Gujarat High Courts on the other, on the point whether the declared amounts can also be treated as income of someone other than the person who made the disclosures.

3. The question whether the amounts standing as credits in the accounts of a firm were genuine or bogus is one of fact. In the instant case, the final fact-finding Tribunal has given a firm finding that the amounts shown as cash credits did belong to certain other bona fide investors. If, while giving such a finding the Appellate Tribunal also incidentally decides a question of law, it does not imply that the said question of law also arises out of the decision given by the Tribunal. In these circumstances, we hold that these are not fit cases in which the Tribunal should be called upon to state questions of law for our decision. These petitions are, therefore, dismissed.

 