(2007) 09 P&H CK 0093

In the Punjab And Haryana At Chandigarh

Commissioner of Income Tax APPELLANT

Vs

K.L. Poswal RESPONDENT

Date of Decision : 01-09-2007

Acts Referred:
Income Tax Act, 1961 — Section 256(1), 256(2)

Citation : (2007) 09 P&H CK 0093

Hon'ble Judges : Rajesh Bindal, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The revenue has approached this court invoking the provisions of Section 256(2) of the Income Tax Act, 1961 (for brevity ''the Act'') claiming that questions of law have emerged from the order dated 12-5-1986 passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh in ITA No. 934/ Chandi./84 in respect of assessment year 1981-82. It has further been claimed that the Tribunal had committed grave error by refusing to refer the question raised by it by dismissing the application filed u/s 256(1) of the Act vide its order dated 23-6-1987. It has been insisted that the following questions of law would arise for determination of this Court:

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the interest on enhanced compensation accrues on year to year basis and as such interest for each period has to be calculated and taxed for the relevant assessment year and not in one year in which the judgment of the Hon''ble High Court enhancing compensation and allowing interest is given?

2. Whether on the facts and in the circumstances of the case, the sum of Rs. 3,19,017 being the entire amount of interest on compensation awarded by the Hon''ble High Court on 10-12-1980 is liable to levy of Income Tax for the assessment year 1981-82?

2. Brief facts of the case are that the agricultural land of the assessee was acquired by the Government of Haryana in the year 1972 and compensation in lieu thereof was awarded by the Collector. The assessee went in appeal before the District Judge and compensation awarded by the Collector was enhanced. Feeling still not satisfied, the assessee filed an appeal for enhancement of compensation before this court and compensation was further enhanced by this Court. The enhanced compensation of Rs. 5,80,031, interest of Rs. 3,19,017 and court fee charges of Rs. 7,292 was paid to the assessee in the month of January, 1982 relevant for the assessment year 1982-83. The assessee declared the interest income on accrual basis spread over in different years and for the relevant assessment year 1981-82 the assessee declared interest on enhanced compensation at Rs. 34,800 but included only 50 per cent thereof in the total income on the ground that the rest of the amount should be taken as spent in view of the High Court decision. The Income Tax Officer was not satisfied with the explanation that half of the amount should only be included in the income as according to him the assessee had not spent a single pie on this account. It was further observed by the Income Tax Officer that the wealth tax computation and the cash flow statement did not suggest that the assessee spent anything for this purpose. Therefore, he included in the total income the interest of Rs. 34,800 on protective basis. The Income Tax Officer further observed that entire amount of interest was includible in the assessment year 1982-83 as compensation was received in the relevant assessment year 1982-83. Feeling aggrieved the assessee filed an appeal before the Appellate Assistant Commissioner (for brevity ''the Appellate Assistant Commissioner) who vide order dated 17-10-1984 held that no appeal against the protective assessment lies. However, while disposing of the appeal, the Appellate Assistant Commissioner required the assessee to file a copy of the judgement of the High Court enhancing compensation. It was held by the Appellate Assistant Commissioner that the entire interest awarded by the High Court amounting to Rs. 3,19,017 had accrued on 10-12-1980 and was accordingly taxable in the previous relevant years. After adjustment of addition of Rs. 34,800 made by the Income Tax Officer the income assessed by the Income Tax Officer was enhanced by Rs. 2,84,217. The assessee challenged the order of Appellate Assistant Commissioner before the Income Tax Appellate Tribunal. The Tribunal vide its order dated 12-5-1986 held that interest accrues on year to year basis and only its quantification is postponed to the date of judgment by the higher courts and, as such interest for each period has to be calculated and taxed for the relevant assessment year and not in one year in which the judgment of the High court is given. Following its earlier order in the case of Smt. Rajinder Kaur, the Tribunal deleted the addition of Rs. 2,84,217 made by the Appellate Assistant Commissioner. The order of the Tribunal was not accepted by the revenue and reference application u/s 256(1) of the Act was filed. The Tribunal vide its order dated 23-6-1987 declined to refer the question of law to this Court. Hence the present petition.

3. We have heard learned Counsel at some length and find that the question

raised is squarely covered by the judgment of Hon''ble the Supreme Court in the case of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and Others, holding that the interest on the enhanced compensation for land compulsorily acquired under the Land Acquisition Act, 1894 (for brevity ''1894 Act'') which has been awarded by the courts either on reference u/s 18 of the 1894 Act or on further appeal taken to the High Court has accrued not on the date of the order of the court granting enhanced compensation but as having accrued year after year from the date of delivery of possession of the land till the date of such order. It has further been held that such interest cannot be assessed to Income Tax in lump sum in the year in which the order is made. The view taken by Hon''ble the Supreme Court in Smt. Rama Bai''s case (supra) has been followed and applied in the case of Bikram Singh and Others Vs. Land Acquisition Collector and Others, . Therefore the first question stands answered by the judgment of Hon''ble the Supreme Court in Smt. Rama Bai''s case (supra) against the revenue. Once the view expressed by the Tribunal is found to be in conformity with law laid down by the Apex Court we do not find that any referable question of law arises in the present petition. The second question is also ancillary to the first question.

4. For the reasons afore-mentioned the petition is found to be devoid of merit and the same is accordingly dismissed.