(1993) 03 DEL CK 0036

In the Delhi High Court

Case No : Income-tax References No''s. 300 to 303 of 1979

Commissioner of Income Tax APPELLANT

Vs

L. Bansidhar and Sons RESPONDENT

Date of Decision : 05-03-1993

Acts Referred:

Citation : (1994) 209 ITR 465

Hon'ble Judges : B.N. Kirpal, J;Arun Madan, J

Bench : Division Bench

Advocate : Rajendra, R.C. Pandey, D.C. Taneja, R.K. Chaufla, R.N. Verma and D.N. Malhotra, for the Appellant; S.K. Aggarwal, for the Respondent

Judgement

B.N. Kirpal J.

1. In respect of the assessment years 1973-74 and 1974-75, at the instance of the assessed as well as the Department, the following three questions of law have been referred :

"(i) Whether, on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that 524 shares of Messrs. Madan Mohan Lal Shri Ram (Pvt.) belonged to L. Bansi Dhar in his individual capacity and not the joint family of the assessed and that the dividend on these shares be excluded from the assessment of the assessed joint family ?

(ii) Whether, on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that the dividend on shares of various companies acquired in the name of the Lala Bansi Dhar''s wife, Mrs. Urmila Bansi Dhar, and child, Master Tilak Kumar, and also the income from interest on deposit made in his name with Messrs. Bharat Ram Charat Ram Pvt. Ltd. could not be included in the income of the assessed joint family ?

(iii) Whether, on the facts and in the circumstances of the case, the Tribunal was legally correct in holding that income from house property at S. P. Road, New

Delhi, was to be computed on the basis of actual rent received and not the bona fide annual value of the property u/s 23 of the Income Tax Act, 1961 ?

2. According to learned counsel for the assessed question No. (iii) arises in ITR Nos. 300 and 301 of 1979 out of RA Nos. 541 and 542/DEL/78-79; whereas the other two questions in ITR Nos. 302 and 303 of 1979 arise out of RA Nos. 553 and 554/DEL/78-79 and the said questions have been referred at the instance of the Revenue.

3. It is not necessary for us to state the facts in detail because the aforesaid questions already stand concluded by two decisions of this court.

4. As regards questions Nos. (i) and (iii), identical questions arose and were decided in L. Bansidhar and Sons Vs. Commissioner of Income Tax, . In reply to questions No. (i) it was held that the shares/dividend belonged to the Hindu undivided family and the said question was, Therefore, answered in favor of the Department and against the assessed. We answer question No. (i) in the aforesaid terms.

5. As regards question No. (iii) it was held that the standard rent as per the Delhi Rent Control Act has to be calculated and that is to be the bona fide annual letting value for the purpose of section 23 of the Income Tax Act, 1961. Following the said decision, in this case also our answer to question No. (iii) will be that the bona fide annual letting value of the property u/s 23 of the Income Tax Act, 1961, has to be the standard rent as envisaged by the Delhi Rent Control Act as was held by the Supreme Court in the case of Mrs. Shiela Kaushish Vs. Commissioner of Income Tax, Delhi, .

6. As regards question No. (ii), it has been held in L.H. Sugar Factories and Oil Mills Vs. Commissioner of Income Tax, , that the income from these shares is the income of the respective individuals and the said question was answered in favor of the assessed. The question is accordingly answered in the aforesaid terms.

7. There will be no order as to costs.

