(1990) 01 DEL CK 0041

In the Delhi High Court

Case No : Income-tax Case No. 91 Of 1987

Commissioner of Income Tax APPELLANT

Vs

Orient Enterprises RESPONDENT

Date of Decision : 10-01-1990

Acts Referred:

Citation : (1990) 185 ITR 156

Hon'ble Judges : C.L. Choudhary, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : P.N. Misra and R.C. Pandey, for the Appellant;

Judgement

Kirpal, J.—The petitioner in this case seeks reference of the following questions of law to this court :

"(1) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in deleting the addition made by the Income Tax Officer on the basis of conflicting statements made by Shri K L Suri, Shri M K Suri, and Shri Sher Singh recorded on March 23, 1979, April 2, 1979, and May 18, 1979, and without considering the directions given by the Inspecting Assistant Commissioner u/s 144B of the Income Tax Act ?

(2) Whether the finding of the Tribunal that the assessed discharged his onus by giving conflicting statements is perverse and erroneous and not rationally possible ?

(3) Whether the statements of Shri M. P. Jain, Shri M. K. Suri and Sher Singh recorded on March 23, 1979, April 2, 1979, and May 18, 1979 are relevant and admissible as evidence in view of their contradictions in their statements and to what extent the said statements can be relied upon by the Tribunal while considering the additions made u/s 68 of the Income Tax Act, 1961 ?"

2. As is evident from the questions themselves, the case pertains to two cash credits of Rs. 4 lakhs and Rs. 1 lakh in the name of Krishnan Lal Prahlad Rai

Saraf and Shri. M. K. Suri, respectively, on March 21, 1979, and March 26, 197 These cash credits related to the year 1979-80. The Income Tax officer examined Shri. M. K. Suri and came to the conclusion that the cash credits were not genuine and he added those amounts in the hands of the respondents. An appeal was filed before the Commissioner of Income Tax (Appeals) who confirmed the order of the assessing authority. Further appeal was filed to the Income Tax Appellate Tribunal. The Tribunal took note of the evidence on record and also noticed the same contradictions which were there in the statements which had been recorded by the Assessing Officer. The Tribunal nevertheless came to the conclusion that the burden which had lain on the assessed for establishing the cash credits had been duly discharged on the basis of the evidence on the record.

3. It is contended by learned counsel for the petitioner that the aforesaid finding of the Tribunal is perverse. We are unable to agree with him. The Tribunal has referred to all the evidence on record which included confirmatory certificates which had been issued with regard to the said cash credits. The Tribunal has also referred to the statements of the witnesses which had been recorded and has then come to the conclusion that the burden which was on the assessed had been discharged. It is pertinent to note that one of the items on which reliance was placed by the Tribunal was that some payments by way of interest had also been made by cheques. In our opinion, it cannot be said that the conclusion of the Tribunal is perverse. The question as to whether the cash credits were genuine or not is a pure question of fact and we find no question of law arising in this case. The petition is, accordingly, dismissed. No costs.