(1980) 02 RAJ CK 0014

In the Rajasthan High Court

Case No : Income Tax Case No. 60 of 1979

Commissioner of Income Tax — APPELLANT

Vs

Thakur Sajjan Singh — RESPONDENT

Date of Decision : 02-02-1980

Acts Referred:
Income Tax Act, 1961 — Section 256(2)
Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 — Section 26(2)

Citation : (1980) 123 ITR 881 : (1980) WLN 224

Hon'ble Judges : C.M. Lodha, C.J;Kanta Bhatnagar, J

Bench : Division Bench

Advocate : L.R. Mehta, for the Appellant; B.C. Mehta, for the Respondent

Judgement

C.M. Lodha, C.J.—This is an application by the Commissioner of Income Tax u/s 256(2) of the I.T. Act, 1961 (which will hereinafter be referred to as "the Act"), requiring the Tribunal to state a case and refer the following two questions of law for the decision 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 right to receive interest had accrued to the assessee earlier than the year of account ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in deleting the addition of Rs. 15,410 being the interest for delayed payment of jagirdar''s compensation amount? "

2. The relevant facts giving rise to the reference are these : The assessee is an erstwhile jagirdar of Jagir Village, Raipur, in the former State of Jodhpur. His jagir was resumed on November 24, 1955, under the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, and the compensation was determined as from the date of resumption. However, it appears that the compensation was not paid for a considerable time, and, therefore, interest amounting to Rs. 15,410, accrued to the assessee for the period commencing from November 24, 1955, to

January 1, 1963, which was paid during the accounting year relevant to the assessment year 1973-74. The ITO included the aforesaid amount of interest in the total income of the assessee for the assessment year 1973-74. Aggrieved by the decision of the ITO, the assessee filed appeal before the AAC, who confirmed the order of the ITO in this respect. Thereupon, the assessee filed a further appeal before the Tribunal, Jaipur Bench, Jaipur, which by its order dated May 16, 1978, allowed the assessee''s appeal and held that the amount of Rs. 15,410 could not be added to the income of the assessee for the relevant accounting year. The revenue was not satisfied with the order of the Tribunal and, therefore, it made an application before the Tribunal for referring the aforesaid questions of law to this court but the Tribunal by its order dated February 14, 1979, rejected the application. Hence, this present application u/s 256(2) of the Act.

3. Now the admitted position is that the assessee''s Jagir was resumed u/s 21 of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952, on November 24, 1955. Section 26 of the Act of 1952 provides for payment of compensation and reads as under :

"26. Liability to pay compensation.--(1) Subject to the other provisions of this Act, the Government shall be liable to pay to every jagirdar whose jagir lands are resumed u/s 21, such compensation as shall be determined in accordance with the principles laid down in the Second Schedule.

(2) Compensation payable under this section shall be due as from the date of resumption and shall carry simple interest at the rate of 21/2 per cent. per annum from that date up to the date of payment:

Provided that no interest shall be payable on any amount of compensation which remains unpaid for any default of the jagirdar, his agent or his representative-in-interest."

4. Sub-section (2) of Section 26, extracted above, makes it clear that the right of the assessee, in the present case, to get interest on the amount of compensation accrued from the date of resumption and, consequently, the interest shall be deemed to have accrued to the assessee, year to year, from the date of resumption up to the date of payment.

5. In Commissioner of Income Tax Vs. Dr. Sham Lal Narula, in a case of acquisition of land under the Land Acquisition Act, interest on compensation was held to accrue from the date of deprivation of property u/s 34 of the Land Acquisition Act. It was further held that interest accrued to the assessee each year, and was payable as such after possession of the land was taken from the owner.

6. In T.N.K. Govindarajulu Chetty Vs. Commissioner of Income Tax, it was held that the liability to pay interest would arise when the compensation amount due to the assessee had not been paid in each of the relevant years. It was a case of compensation payable to the assessee by the Government for a property

acquired in 1949, under the Requisitioned Land (Continuance of Powers) Act, 1947, of the State of Madras, Another case on the point which may be noted is Joyanarayan Panigrahi Vs. Commissioner of Income Tax, wherein it was observed that if income has accrued during a particular year, it is not open either to the assessee or the ITO to take that income into consideration in any other year. This was a case of interest on compensation for acquisition of land and the interest was paid for a number of years in one lump. In these circumstances, it was held that the interest accrued in each year.

7. As already stated above, interest accrued to the assessee in the present case also in each year under Sub-section (2) of Section 26 of the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952. In our opinion, the view taken by the Tribunal appears to be well-settled, and no useful purpose would be served by calling for a reference.

8. Accordingly, this application is dismissed but without any order as to costs.

