
(2004) 07 MP CK 0015
In the Madhya Pradesh High Court
Case No : Income Tax A. No. 73 of 2003

Commissioner of Income Tax

APPELLANT

Vs

V. Raghavan

RESPONDENT

Date of Decision : 22-07-2004

Acts Referred:

Income Tax Act, 1961 — Section 158BC, 260A

Citation : (2005) 274 ITR 64 : (2006) 156 TAXMAN 246

Hon'ble Judges : Ashok Kumar Tiwari, J;A.M. Sapre, J

Bench : Division Bench

Advocate : R.L. Jain, for the Appellant;

Final Decision : Dismissed

Judgement

A.M. Sapre, J.—This is an appeal filed by the Revenue (income tax Department) u/s 260A of the Income Tax Act, 1961, against an order, dated March 7, 2003, passed by the Income Tax Appellate Tribunal in I. T. (SS) A. No. 31/Ind of 1997.

2. In short, the question that arises for consideration in this appeal is, whether this appeal involves any substantial question of law as is required to be made out u/s 260A of the Act that being the pre-requisite for admission of appeal.

3. Heard Shri R. L. Jain learned counsel for the appellant.

4. Having heard learned counsel for the appellant and having perused the record of the case, we are of the opinion that the appeal does not involve any substantial question of law for consideration in this appeal and that the two questions proposed by the appellant (Revenue) do not satisfy the rigour of substantial question of law within the meaning of Section 260A of the Act.

5. The issue relates to grant of certain deletions which were made by the Assessing Officer in the course of block assessment proceedings initiated against the assessee u/s 158BC of the Act. The Assessing Officer did not accept the explanation offered by the assessee and treating the said amount to be that of

the assessee added in his total income. The Tribunal set aside the order of the Assessing Officer in so far as it related to additions made by him (AO). In other words, the Tribunal accepted the factual explanation coupled with the evidence tendered by the assessee in relation to the impugned additions made by the Assessing Officer and held that since the same have been properly explained, they cannot be included while computing the total income of the assessee. Since it was a case of raid, the assessee was called upon to explain the source of income so as to enable the Assessing Officer to determine the actual taxable liability arising out of the raid proceedings.

6. In our opinion, once the Tribunal has accepted the explanation of the assessee and accordingly, deleted certain additions made by the Assessing Officer then it does not involve any substantial issue of law as such. In other words, this court in its appellate jurisdiction which is defined u/s 260A *ibid*, cannot again *de novo* hold yet another inquiry with a view to find out whether the explanation offered by the assessee and which found acceptance by the appellate authority, namely, the Tribunal is good or bad, or whether it was rightly accepted, or not cannot be probed again in appeal by this court. It is only when the factual finding is entirely *de hors* the subject, or it is based on no reasoning, or it is absurd to the extent that no reasonable prudent man can ever reach such conclusion, or it is against the provision of law, that a case for substantial question of law is made out.

7. In our view, no such error could be noticed by us in the impugned order. The Tribunal did go into the details of the explanation offered by the assessee and accepted the explanation thereby deleting the additions. As a consequence, certain additions made by the Assessing Officer came to be deleted.

8. We thus, do not find any merit in the appeal. It fails and is dismissed in limine by holding that it does not involve any substantial question of law.

9. No costs.