(2001) 03 MP CK 0010

In the Madhya Pradesh High Court

Case No : Income Tax A. No. 82 of 1999

Gyan Chand Anil Kumar APPELLANT

Vs

Income Tax Officer RESPONDENT

Date of Decision : 14-03-2001

Acts Referred:

Citation : (2001) ILR (MP) 655 : (2001) 251 ITR 559 : (2002) 120 TAXMAN 842

Hon'ble Judges : Bhawani Singh, C.J;A.K. Mishra, J

Bench : Division Bench

Advocate : B.L. Nema and S. Agrawal, for the Appellant; Rohit Arya, for the Respondent

Judgement

Arun Mishra, J.—This is an appeal preferred by the assessee with respect to the assessment year 1990-91 against an order passed by the Income Tax Appellate Tribunal. Income of Rs. 1,29,607 was shown by the assessee/ appellant whereas the Income Tax Officer (for short "the ITO") assessed his income at Rs. 3,57,990. Addition of Rs. 1,75,000 was made treating the credit taken front Shri Sonelal Jain as unexplained, an appeal was preferred by the appellant/asses see before the Commissioner of Income Tax (Appeals), Jabalpur, who deleted the addition so made by the Income Tax Officer. Aggrieved by the order passed by the Commissioner of Income Tax, the Revenue preferred an appeal before the Income Tax Appellate Tribunal (for short "the ITAT"). The Income Tax Appellate Tribunal allowed the appeal in part and ordered an addition of Rs. 75,000 as against addition of Rs. 1,75,000 made by the Income Tax Officer.

2. In the present appeal the question which has been agitated is that the addition of Rs. 75,000 by the Income Tax Appellate Tribunal is bad in law, since taking the loan was supported by the bank transaction. Thus, learned senior counsel, Shri B. L. Nema, submits that the addition of Rs. 75,000 is bad in law. It is his further submission that Shri Sonelal Jain was having an agriculture income from 33.24 acres of agricultural land owned by him and as a matter of fact, he had purchased the house property subsequent to the transaction. Thus, addition

of Rs. 75,000 by the Income Tax Appellate Tribunal is bad in law and the finding recorded is perverse. Hence, the aforementioned substantial questions of law arise in the present appeal for its consideration.

3. After going through the record and hearing learned counsel at length, it is clear that a loan of Rs. 75,000 is said to be advanced on November 6, 1989. On the next day, i.e., November 7, 1989, the amount is said to be returned back by the assessee to Shri Sonelal Jain. With respect to an arrangement of this amount of Rs. 75,000, it has been found by the Income Tax Officer that the credit of Rs. 50,000 in the account of Shri Sonelal Jain was made. On November 4, 1989, a credit entry of Rs. 25,000 was made. A letter dated January 30, 1992, from the Central Bank of India shows that the above credit entries of Rs. 50,000 and Rs. 25,000 were transfer entries from the Jabalpur bank brought from one Rajkumar. Thus, Shri Sonelal Jain was not having the money of his own and if the transaction was his own transaction and had the assessee required the money of Rs. 75,000 on November 6, 1989, then there was absolutely nothing to return it next very day, i.e., November 7, 1989. Thus, in the circumstances it has been found that the entry was manipulated one and no amount of Rs. 75,000 was advanced. From the statement of Shri Sonelal Jain, it is clear that to the question put to him why the money was returned very next day, he simply stated that the assessee did not require the money. If the assessee did not require the money there was reason for taking the loan on November 6, 1989. Thus, it is clear that the addition of Rs. 75,000 which has been made due to loan transaction, is clearly justified. The finding which has been recorded about unexplained income is purely a finding of fact. Simply by the fact that the transaction of Rs. 1 lakh was accepted out of Rs. 1,75,000, it cannot be taken that error has been committed by addition of Rs. 75,000, since the transactions were of different dates. The finding is not shown to be perverse in any manner. It appears to have been arrived at in a reasonable manner in the exercise of prudence of a reasonable man. Hence, the finding is not assailable in the present appeal and no substantial question of law arises for consideration by this court, so as to warrant admission of the present appeal.

4. Thus, the appeal raises no substantial question of law. The same is dismissed.