
(2010) 11 P&H CK 0700

In the Punjab And Haryana At Chandigarh

Case No : IT no. 976 of 2008 1-4-1988 to 22-9-1998

Hazarilal

APPELLANT

Vs

CIT

RESPONDENT

Date of Decision : 08-11-2010

Acts Referred:

Income Tax Act, 1961 — Section 132(1), 260A

Citation : (2011) 336 ITR 290 : (2012) 20 TAXMAN 714

Hon'ble Judges : Ajay Kumar Mittal, J;A.K. Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J.—This appeal u/s 260A of the income tax Act, 1961 (for short "the Act"), has been filed by the assessee against the order dated 31-10-2007, passed by the income tax Appellate Tribunal, Chandigarh Bench "A", Chandigarh (in short "the Tribunal"), in I. T. A. no. 18/Chandi/2001, relating to the block period from 1-4-1988 to 22-9-1998.

2. The assessee has claimed the following substantial questions of law for determination by this court :

1. Whether the Tribunal's order is sustainable in making an estimation of addition u/s 158B(b) by the multiplication of receipts being de hors the material available ?

2. Whether the Tribunal's order is sustainable in confirming the addition of Rs. 3,18,000 being contrary to the modus operandi and the nature of transactions carried on by the assessee ?

3. Whether the assessee be granted the benefit of telescoping of the additions sustained in the unexplained income ?

3. In brief, the facts necessary for adjudication as narrated in the appeal are that the assessee is engaged in the business of commission agency for purchase and

sale of vehicles and having the interest limited to the extent of commission. On 22-9-1998, a search operation was carried out at the residential premises of the assessee u/s 132(1) of the Act, and pursuant thereto a notice u/s 158BC was served on him. Assessment was framed, vide order dated 29-9-2000, annexure A-I. While framing the assessment the assessing authority made additions on various counts, but the assessee disputed only the addition on account of estimation of income for the assessment years 1997-98, 1998-99, 1999-2000 (up to 22-9-1998) and regarding the ad hoc addition of Rs. 3,18,000. Aggrieved by the order, annexure A-I, the assessee filed an appeal before the Commissioner of income tax (Appeals) (hereinafter referred to as "the CIT(A)"). The Commissioner of income tax (Appeals) upheld the order of the Assessing Officer vide order dated 27-3-2001, annexure A-2.

4. The assessee still dissatisfied assailed the order of the Commissioner of income tax (Appeals) before the Tribunal. The Tribunal partly allowed the appeal vide order under appeal sustaining the addition of Rs. 3,18,000 only.

5. We have heard learned counsel for the parties and perused the record.

6. The only point that arises for consideration in the appeal is, whether the addition which has been made by the Assessing Officer on account of unexplained investment in miscellaneous items amounting to Rs. 3,18,000 and affirmed by the Commissioner of income tax (Appeals) and upheld by the Tribunal, is valid or not. The Assessing Officer had made this addition of Rs. 3,18,000 on the ground that in the seized documents in the third column therein various miscellaneous items like Rs. 40,000 in Indira Vikas Patras, etc. had been written, the total of which was Rs. 3,18,000 and the reply furnished by the assessee was not satisfactory which led to addition of this amount in the undisclosed income. The Tribunal while rejecting the explanation of the assessee had recorded as under :

With respect to the addition of Rs. 3,18,000 also, we find that no specific explanation has been furnished before the lower authorities. The assessee has not denied the relevance of the amounts in question and, thus, the onus was on the assessee to offer credible explanation in this regard. The explanations furnished by the assessee on this count have not been found to be satisfactory and, thus, the addition has been rightly sustained by the learned Commissioner of income tax (Appeals).

7. Learned counsel for the assessee was unable to point out that the findings concurrently recorded by the Assessing Officer, the Commissioner of income tax (Appeals) and the Tribunal while sustaining the addition of Rs. 3,18,000 were erroneous or perverse in any manner. Only an effort was made by the counsel for re-appreciation of evidence by this court which is not within the ambit of section 260A of the Act. As noticed earlier, the explanation furnished by the assessee was not accepted by any of the authorities below. The Tribunal has taken a plausible view.

8. In view of the above no substantial question of law arises in this appeal. Accordingly, finding no merit in the appeal, the same is dismissed.