
(2010) 08 P&H CK 0167
In the Punjab And Haryana At Chandigarh
Case No : Income Tax A. No. 482 of 2009

Iqbal Singh

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision : 17-08-2010

Acts Referred:

Income Tax Act, 1961 — Section 144, 144(1), 260A

Citation : (2010) 328 ITR 301

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

Ajay Kumar Mittal, J.—This appeal has been preferred by the asses-see u/s 260A of the Income Tax Act, 1961 (in short "the Act") against the order dated December 31, 2008, passed by the Income Tax Appellate Tribunal, "B" Bench, Chandigarh (hereinafter referred to as "the Tribunal") in I. T. A. No. 109/CHANDI/2008 for the assessment year 2004-05, proposing to raise the following substantial questions of law:

(i) Whether on the facts and in the circumstances, evidence on record and established principles of law the Income Tax Appellate Tribunal was justified in confirming the orders of the authorities below in finalizing the assessment u/s 144 of the Income Tax Act, 1961 without conforming to the proviso to Section 144(1) of the Income Tax Act, 1961 ?

(ii) Whether on the facts and circumstances, evidence on record and established principles of law the Income Tax Appellate Tribunal was justified in confirming the orders of the authorities below in treating the deposits in banks as income from unknown sources as explained being out of agricultural income duly declared and accepted in the return of the year under appeal and also confirmed by the Commissioner of Income Tax (Appeals) against which the Department has not even filed any appeal before the Income Tax Appellate Tribunal ?

(iii) Whether on the facts, circumstances and evidence on record and established principles of law the Income Tax Appellate Tribunal was justified in confirming the orders of the authorities below in treating the declared and assessed/accepted income of the son from horse breeding and sale thereof who being of age of majority and actively engaged in such like operations is eligible to be assessed individually and as so assessed as unexplained income of the Appellant from unknown sources ?

(iv) Whether on the facts, circumstances and evidence on record and established principles of law the Income Tax Appellate Tribunal was justified in confirming the orders of the authorities below in treating the marriage gift of Rs. 8,00,000 received by the son of the Appellant in the hands of the Appellant while the son being of age of majority and as so assessed as unexplained income of the Appellant from unknown sources is wholly unjustified and is against the established principles of the Income Tax Act, 1961, and leads to double taxation ?

(v) Whether on the facts, circumstances and evidence on record and established principles of law the Income Tax Appellate Tribunal was justified in confirming the orders of the authorities below in treating the deposits in banks to the extent of Rs. 3,10,000 as income from unknown sources as explained being out of earlier withdrawals from the bank, earlier years agricultural income and past savings, etc. ?

2. The facts necessary for adjudication of the present appeal may be noticed. The Assessee is engaged in agricultural operations which was exempted from tax. Upon notice dated November 30, 2005, issued by the Assessing Officer, the Assessee filed his return declaring an income of Rs. 2,20,000 from agriculture and taxable income as nil. The Assessing Officer made additions of Rs. 9,30,500 and Rs. 15,10,000 on account of various deposits in the bank accounts and Rs. 36,544 on account of interest accrued in the bank accounts. The total assessment was made at Rs. 24,65,040 plus agricultural income of Rs. 1,32,000. Against the order of the Assessing Officer, the Assessee approached the Commissioner of Income Tax (Appeals) (in short "the CIT (A)) who upheld the order of the Assessing Officer. On further appeal, the Tribunal affirmed the order of the Commissioner of Income Tax (Appeals) and dismissed the appeal.

3. We have heard learned Counsel for the parties and perused the record.

4. The challenge by the Assessee-Appellant in the present appeal is regarding additions of Rs. 9,30,500, Rs. 8,00,000 and Rs. 3,10,000 made by the Assessing Officer.

5. The addition of Rs. 9,30,500 was made by the Assessing Officer on account of undisclosed income deposited in the bank account. The Tribunal, while rejecting the said plea of the Assessee, had recorded as under:

We have considered the rival submissions carefully. In this case, evidently the Assessing Officer rejected the explanation of the Assessee with regard to a sum

of Rs. 4,50,000 on the ground that there was no evidence to substantiate the fact that the same was out of sale proceeds of agriculture produce. No such evidence has been led by the Assessee either before the Commissioner of Income Tax (Appeals) or even before us. Therefore, the said addition is liable to be sustained. We hold so. Even with regard to the sum of Rs. 4,80,000 deposited in the bank account of the son of the Assessee, we are inclined to uphold the action of the Assessing Officer. Admittedly, there is no evidence brought on record by the Assessee to substantiate that his son was having any independent source of income. There is also no evidence to support the plea that his son was doing activities of personal skill. Leave alone producing of any evidence, there is no identification also of the source of income in the hands of the son. We, therefore, find no justification to interfere with the conclusions drawn by the lower authorities on this issue. Hence, the addition of Rs. 9,30,500 made by the Assessing Officer is hereby affirmed.

6. The Tribunal also upheld the addition of Rs. 8,00,000 which was alleged to have been received as gift from Shri Ruldu Singh, i.e., father-in-law of the Assessee at the time of marriage. The Tribunal had upheld the finding that the explanation of Shri Ruldu Singh was not reliable and he was not a man of means who could have gifted a sum of Rs. 8,00,000. The relevant finding of the Tribunal to this effect reads thus:

We have examined the rival claims on this aspect. From the discussion made by the Assessing Officer in paragraph 3 of his order, we find that his factual findings are that "Shri Ruldu Singh is not a man of means. The Assessing Officer observes that Shri Ruldu Singh admitted that there was no evidence in support of his plea that he was making sale of agriculture produce. The said Shri Ruldu Singh also failed to explain the details of the expenditure on the marriage of his daughter with the son of the Assessee. The Assessing Officer has also referred to the reply of the Assessee dated May 1, 2006, wherein it has been admitted that he has not received any gift from any relative. This fact has also prevailed with the Assessing Officer in holding that the alleged explanation of the Assessee of having been received a gift of Rs. 8,00,000 from Shri Ruldu Singh was not reliable. Even the version of Shri Ruldu Singh has been held to be unreliable., We find no reasons to interfere with the inferences drawn by the Assessing Officer having regard to the verification exercise carried out during the assessment proceedings. The discussion made by the Assessing Officer in the assessment order leaves no doubt that Shri Ruldu Singh was not a man of means to have gifted a sum of Rs. 8,00,000 to the Assessee. The onus in this regard, which was cast on the Assessee, has not been discharged. As a result, the addition made by the Assessing Officer on this aspect is hereby sustained. The Assessee fails on this aspect is hereby sustained. The Assessee fails on this ground.

7. The issue relating to addition of Rs. 3,10,000 which was on account of cash deposited in the bank account on October 15, 2003, was referred back to the Assessing Officer for fresh adjudication by the Tribunal with the following

observations:

In this connection, we find that before the Assessing Officer, the Assessee submitted that Rs. 3,10,000 was deposited by him on October 15, 2003, out of the amount of Rs. 4,00,000 withdrawn on October 1, 2003. The plea was rejected on the ground that the Assessing Officer found that the transaction of Rs. 3,10,000 was shown by the bank as bank transfer and not as cash deposit. The counsel for the Assessee has referred to page 13 of the paper book showing that the entry of Rs. 3,10,000 was cash and not as a bank transfer. The limited plea of the Assessee now is that the benefit of the cash available out of the earlier withdrawal made on October 1, 2003 be given to the Assessee while making the addition in relation to the sum of Rs. 3,10,000 deposited on October 15, 2003. On this aspect, we are inclined to restore the issue to the Assessing Officer to examine this limited issue afresh. Notably, the certificate issued by the banker, which is placed at page 13 of the paper book has not been referred to by the Assessing Officer in his order for the reason that the same was not before him. Therefore, the Assessing Officer may consider it and adjudicate the explanation regarding Rs. 3,10,000 afresh.

8. Learned Counsel for the Appellant made strenuous effort to arrive at a conclusion favourable to the Assessee. According to him, the additions of Rs. 8,00,000 and Rs. 9,30,500 made in the income of the Assessee and remanding the issue of Rs. 3,10,000 to the Assessing Officer was unjustified and the conclusion drawn by the authorities below is perverse.

9. It has been concurrently recorded by the assessing authority which has been upheld by the Commissioner of Income Tax (Appeals) and the Tribunal that the additions of Rs. 8,00,000 and Rs. 9,30,500 in the income of the Assessee were justified. The addition of Rs. 3,10,000 has been remanded as the certificate issued by the banker had not been considered by the Assessing Officer. The above findings are pure findings of fact which had been recorded on the basis of appreciation of material on record. Learned Counsel, however, could not point out any illegality or perversity in the findings recorded which may warrant interference by this Court.

10. In view of the above, no substantial question of law arises in this appeal.

11. The appeal is dismissed.