

(1984) 02 CAL CK 0035

In the Calcutta High Court

Case No : Income-tax Reference No. 296 of 1970

L.M. Thapar

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision : 27-02-1984

Acts Referred:

Citation : (1984) 41 CTR 55 : (1984) 149 ITR 383

Hon'ble Judges : Satish Chandra, C.J.; Suhas Chandra Sen, J

Bench : Division Bench

Judgement

Satish Chandra, C.J.—The Tribunal has submitted the statement of the case and has referred the following question of law for our opinion :

" Whether, on the facts and in the circumstances of the case, the Tribunal was justified in treating the sum of Rs. 1 lakh found to have been spent on the occasion of the marriages of the son and daughter of the late Karamchand Thapar as income from undisclosed sources owing to the absence of a proper record maintained in that respect ?"

2. The question relates to the assessment year 1960-61, the accounting period ending on March 31, 1960. Late Shri Karamchand Thapar was the assessee. It appears that Sri M. M. Thapar, assessee's son, was married on May 2, 1959, and the assessee's daughter was married on January 18, 1960. The ITO felt that in the Income Tax return the expenses of marriages were not properly explained. He asked for certain details and the same was furnished, on a consideration whereof the ITO held that the marriage expenses should be assessed at Rs. 4 lakhs. He gave credit for a sum of Rs. 1,51,000 admitted by the assessee to have been spent on the two marriages and added back a sum of Rs. 2,50,000 as income from undisclosed sources.

3. The assessee went up in appeal. The AAC accepted the case of the assessee and deleted the addition. The matter went up to the Tribunal. The Tribunal agreed with the ITO in part. It held that in all circumstances it will be reasonable

to consider the total marriage expenses at about Rs. 2.5 lakhs. Since the expenses of Rs. 1,51,000 were admitted, the Tribunal estimated the addition at a lump sum figure of Rs. 1 lakh. The question mentioned at the beginning of this judgment has been referred at the instance of the assessee.

4. The learned counsel for the assessee has drawn our attention to the following two questions:

" 1. Whether there was any material before the Tribunal on which it could add a sum of Rs. 1,00,000 as the marriage expenses incurred by the assessee during the relevant accounting year ?

2. Whether the conclusion of the Tribunal that in addition to the expenses of a sum of Rs. 1,51,000 admitted by the assessee, a further expense at a lump figure of Rs. 1,00,000 has been incurred on account of the marriage expenses was based on conjectures, suspicions and surmises and on a failure to consider the relevant evidence on record ?"

5. He has stressed that in view of the order of the Supreme Court dated January 15, 1971, the question whether the finding that a further expense at a lump sum figure of Rs. 1,00,000 has been incurred on account of the marriage expenses was based on conjectures, suspicions and surmises and on a failure to consider the relevant evidence on record is also included in the aforesaid question referred to this court. We shall presume it to be so -included.

6. The Tribunal took into consideration the circumstances of the assessee and that the late assessee's (another) son and (another) daughter were married in 1941 and 1945 respectively. At that time the marriage expenses were assessed at Rs. 4 lakhs by the Income Tax Investigation Commission. It also took into consideration that since then and until 1959 and 1960, prices have gone up 4 to 8 times. This was not disputed by the assessee before the Tribunal. It also took into consideration the fact that the statements and details furnished by the assessee's legal representatives were inadequate and showed no expenses on account of silver utensils, furniture, clothing, etc. It held that these things, namely, silver utensils, furniture and clothing which would include costly sarees would have to be purchased in any case at the time of the daughter's marriage to be given to her as a gift. The Tribunal also held that in the very nature of things when an estimated required to be made in the absence of a proper record maintained in that respect, probabilities cannot altogether be excluded from consideration. In all circumstances, therefore, according to the Tribunal, it will be reasonable to consider the total marriage expenses at about Rs. 2 1/2 lakhs. Since the expenses of Rs. 1,51,000 only were admitted, the Tribunal estimated the further expenses at a lump sum figure of Rs. 1,00,000.

7. The Tribunal was conscious of the fact that the late assessee had made substantial gifts of shares and fixed deposits in favour of the son and the daughter on the occasion of their wedding. It, however, held that similar post-nuptial cash gifts had been made at the time of the marriage of the daughter and

the son in 1941 and 1945. But there was nothing to indicate that these gifts, etc., were found to be part of the expenses of Rs. 4 lakhs estimated to have been incurred by the assessee in those two weddings. Therefore, the Tribunal was not very much impressed by the submission that on the occasion of the marriage of the son and daughter in 1959 and 1960 large sums were gifted by way of shares or fixed deposits.

8. We are not impressed by the submission that the finding reached by the Tribunal is based on conjectures, suspicions or surmises or on a failure to consider the relevant evidence on record. The Tribunal took into consideration the relevant and material circumstances including the fact that the assessee was financially and socially occupying a very high position in the town. He had earlier spent a considerable amount of money of about Rs. 4 lakhs or so at the time of the wedding of his (other) two children and that the details furnished by his legal representatives which are supposed to be supported by vouchers, receipts, etc., did not include any expenditure on account of furniture, clothing including sarees, etc., which are bound to be given at a wedding of a son or daughter. The Tribunal was hence constrained to remark that the details of the expenditure furnished by the assessee's legal representatives were not complete. That there was steep rise of prices since 1941-45 to 1959-60 also does not leave room for a doubt or dispute. The Tribunal has of course remarked that the prices have gone up 4 to 8 times. That does not mean that it has based its finding on the footing that the prices have gone up by 8 times. In the circumstances, we are not inclined to hold that the finding is based on conjectures, suspicions and surmises. There was sufficient material for the Tribunal to come to the conclusion that it will be reasonable to consider the total marriage expenses at about Rs. 2 1/2 lakhs.

9. We, therefore, answer the question referred to us in the affirmative, in favour of the Department and against the assessee. There will, however, be no order as to costs.

Suhas Chandra Sen , J.

10. I agree.