

(2001) 09 MP CK 0010

In the Madhya Pradesh High Court

Case No : IT Appeal No. 58 of 2001 11 September 2001 A.Y. 1992-93

RASIKLAL

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision : 11-09-2001

Acts Referred:

Citation : (2002) 172 CTR 29 : (2002) 121 TAXMAN 245

Hon'ble Judges : Deepak Verma, J;A.K. Gohil, J

Bench : Full Bench

Advocate : P.M. Chowdhary, for the Revenue, for the Appellant;

Judgement

By the Court

Heard Shri P.M. Chowdhary, learned counsel for appellant, on the question of admission.

2. This appeal at the instance of assessee has been preferred u/s 260A of the Income Tax Act against the order of Tribunal, dated 1-5-2001, whereby, the agricultural income assessed by assessee at Rs. 2,47,754, for the assessment year 1992-93, has been reduced to Rs. 1 lakh and Rs. 1,47,754 has been confirmed, as addition of the income of the assessee from other sources.

Appeal before the Tribunal was preferred at the instance of revenue against the order, passed by Commissioner (Appeals). The ground, on which the said order was assailed is, reproduced hereinbelow :

"On the facts and in the circumstances of the case, the learned Commissioner (Appeals) erred in holding, that the amount of agricultural income shown at Rs. 2,47,754 was reasonable and erred in reducing the addition of Rs. 1,97,754 to Rs. 33,754, made under the head from other sources.

It is, therefore, prayed that the order of the learned Commissioner (Appeals) may please be set aside, as it is bad in law on the facts of the case".

3. We have, accordingly, heard the learned counsel for appellant-assessee at length and perused the record.

4. Learned counsel submitted, that in appeal preferred by revenue before Tribunal, the ground was not specifically raised, yet, as finding has been recorded in favour of the revenue and against the assessee.

5. We are not convinced by this ground. The ground that was taken by revenue, was a larger question where all ancillary questions could have been agitated by the revenue. Apart from this, it cannot be said that the ground which was taken in appeal by the revenue, did not cover the question, which has been answered by the Tribunal.

In para 5 of the impugned order, the learned Tribunal has rejected the assessee's (sic-version) of taking land on lease from various farmers, as according to the Tribunal, the same cannot be said to be free from doubts. Apart from this, a further finding of fact has been recorded that assessee had failed to show that even, if he had taken additional lands on lease from various farmers, as alleged, then he had actually cultivated the same or carried on agricultural operation. This has been held so, as relevant Khasra entries, wherein, possession of assessee as occupier could have been recorded in column No. 12, was not filed. The Khasra entries contained all necessary details which would have gone to show as to who had actually cultivated, what was shown and who was in actual physical possession of the land. In absence of all these documents, the Tribunal was right in reducing the agricultural income of the assessee. The same has been assessed only for the land, of which assessee is the owner and in possession. Against this finding of fact, no case is made out for any interference.

We find that in any case, no substantial question of law arises in this appeal. Therefore, this appeal fails and is hereby dismissed.