(1960) 08 RAJ CK 0013

In the Rajasthan High Court

Case No : Civil Revision No. 318 of 1958

S.C. Bahl and Another — APPELLANT

Vs

Magh Raj and Another — RESPONDENT

Date of Decision : 01-08-1960

Acts Referred:
Income Tax Act, 1922 — Section 54

Citation : AIR 1961 Raj 39

Hon'ble Judges : Jagat Narayan, J

Bench : Single Bench

Advocate : Kan Singh, for the Appellant; Party in person, for the Respondent

Final Decision : Dismissed

Judgement

Jagat Narayan, J.—This is a revision application by the Income Tax Officer, Jodhpur, against an order dated 26th March 1957 passed by the Additional Civil Judge, Jodhpur, in a suit for the recovery of money pending before him.

2. The suit has been instituted by an advocate for recovering his fees for appearing before the Income Tax Officer on behalf of certain assessees. In order to prove that he was engaged by them and actually appeared for them before the Income Tax Officer the plaintiff applied to the court for summoning the Income Tax Officer, Jodhpur for producing the following documents :

(1) Vakalatnama filed by the plaintiff on behalf of his clients before the Income Tax Officer, Jodhpur.

(2) Order-sheet of proceedings before the Income Tax Officer showing the appearance of the plaintiff on behalf of his clients on different dates, and

(3) An application filed by the plaintiff before the I. T. O. on behalf of his clients.

3. Summonses were duly issued by the court. The Income Tax Officer however raised an objection that the documents which he was asked to produce were confidential under Sec, 54 of the Income Tax Act and the court had no power to

order their production. On this objection, the court passed aa order on 26th March, 1957, holding that the Vakalatnama was not protected u/s 54 of the Income Tax Act He also held that the Income Tax Officer was bound to disclose on what dates the plaintiff had appeared before him on behalf of his clients and whether he had filed an application on behalf of his clients before him. Against that order the present revision application has been filed.

4. The contention on behalf of the applicant is that the Vakalatnama is a document produced under the provisions of Section 61 of the Income Tax Act and the order-sheet and application are parts of the record of the assessment proceedings and as such they are coveted by the ban imposed u/s 54 of the Income Tax Act.

5. On behalf of the opposite party, it is contended that there is nothing confidential in the Vakalatnama or in the information which he seeks from the Income Tax Officer and the order of the learned Additional Civil Judge is proper. The deci-sjon of Bhagwati, J. in Official Assignee of Bombay Vs. Mustafa Murtaza and Others, was relied upon.

6. Section 54(1) of the Income Tax Act runs as follows :

"All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act or in any evidence given, or affidavit or deposition made, in the course of any prucedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared fur the purposes of this Act, shall be treated as confidential, and, notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872) no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record or to give evidence before it in respect thereof."

7. The language used in the section is very general. In Official Assignee of Bombay Vs. Mustafa Murtaza and Others, certain ^ooks of account were filed before the Income Tax Officer in a certain proceeding. He was called upon to produce them in court. It was contended that In view of the provisions of Section 54 of the Income Tax Act, the Income Tax Officer could not be called upon to produce the account books. It was held that only those entries in the books of account which were relevant for purposes of assessment could come under the ban imposed u/s 54 of the Act and not the entire account books.

The object of the enactment of Section 54 Income , Tax Act is to save confidential communications which the assessees may make to the Income Tax Officer in the course of the investigation. It does not appear to have been the intention of the Legislature to save all documents produced before the Income Tax Officer under the provisions of the Income Tax Act irrespective of their nature. The ratio decidendi in the above Bombay case was that only those documents which were relevant for purposts of assessment came under the ban imposed u/s 54 of the Income Tax Act.

The same ratio is applicable in the present case. The Vakalatnama which was produced by the plaintiff before the Income Tax Officer u/s 61 of the Income Tax Act authorising him to represent his clients in proceedings before the Income Tax Officer as well as the other information which the learned Additional Civil Judge has held that the Income Tax Officer is bound to furnish, arc not relevant for purposes of assessment. They are consequently not covered by the ban imposed u/s 54.

8. I accordingly hold that the order passed by the learned Additional Civil Judge is proper and dismiss the revision application.

9. I would like to make it clear that the contents of the application filed by the plaintiff on behalf of the assessees cannot be disclosed. All that the learned Additional Civil Judge has held is that the Income Tax Officer is bound to disclose whether the plaintiff had filed any application on behalf of the assessees.

10. In the circumstances of the case I direct that parties shall bear their own costs.