(2002) 07 MP CK 0041

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 405 of 1993

Union of India (UOI) APPELLANT

Vs

Pyarelal Tarachand and Another RESPONDENT

Date of Decision : 02-07-2002

Acts Referred:
Income Tax Act, 1961 — Section 276B, 278B

Citation : (2003) 180 CTR 551 : (2003) 264 ITR 525 : (2004) 135 TAXMAN 97

Hon'ble Judges : Deepak Verma, J

Bench : Single Bench

Advocate : R.L. Jain, for the Appellant; P. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Deepak Verma, J.—This appeal has been preferred by Union of India, against the judgment and order of acquittal dt, 8th July, 1992, passed by Addl. Chief Judicial Magistrate (Economic Office), Indore, in Criminal Case No. 4/1985, after grant of leave,

2. I have carefully heard the learned counsel for the parties at length and perused the record.

3. A criminal complaint was filed by the appellant/Union of India against the respondents for initiation of their prosecution, on account of their violation of certain provisions of the IT Act, (hereinafter referred to as the "Act"). They were charged and prosecuted for the commission of offence punishable under Sections 276B and 278B of the Act.

4. On appreciation of evidence available on record, the trial Court has found that there was no intentional suppression of income by the respondents/assessee. According to the findings recorded by the trial Court, it has been found that the assessee had shown in their return for the relevant assessment year, interest paid to the concerned depositors but due to inadvertence they had not annexed Form No. 15A along with the return and had also not filed the return form in

Form No. 20A, as required under Rule 37(2)(a) of the IT Rules, 1962. It has been recorded that if the assessee had been asked by the AO to comply with the said requirement and if they had failed to do so, then it could have been said that there was intentional default committed by assessee. But this procedure was not adopted by the AO, therefore, it is not proved that they had deliberately or intentionally committed this default.

The trial Court has also relied on debit notes Annexure P/19 to P/39 to come to the conclusion that the same has fully established the defence of the assessee, I find that they have fully explained the default committed by them to the satisfaction of the trial Court.

5. Further finding has been recorded that there was no mala fide intention in it and mens rea was completely absent. The reasons assigned by learned trial Court in para 24 of the impugned judgment are reasonable and plausible,

6. Against such findings recorded by Court below, wherein the benefit of doubt has been extended to them, I find no case for any interference is made put and no infirmity or perversity could be pointed out to me against the impugned judgment and order of the trial Court. The appeal is devoid of any merit and substance and is hereby dismissed.