(2007) 02 P&H CK 0139

In the Punjab And Haryana At Chandigarh

Zora Singh APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 13-02-2007

Acts Referred:
Income Tax Act, 1961 — Section 143, 145, 260A

Citation : (2008) 296 ITR 104 : (2008) 173 TAXMAN 76

Hon'ble Judges : Rajesh Bindal, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—The appellant has approached this Court by filing the present appeal u/s 260A of Income Tax Act, 1961 (for short "the Act"), against order dated December 19, 2005, passed by the Income Tax Appellate Tribunal, Chandigarh Bench "A", Chandigarh (for short "the Tribunal"), in I.T.A. No. 872/ Chandi/2004 in respect of the assessment years 2001-02 raising the following substantial questions of law:

1. Whether under the facts and circumstances of the case the Tribunal''s findings are perverse in estimating the net profit at Rs. 42,225 at 8 per cent. of gross receipts and application of provisions of Section 145 and rejecting book results?

2. Whether under the facts and circumstances of the case the Tribunal is justified in upholding the accrual and arising of income in the opening of relevant financial year amounting to Rs. 40,000 against the total investment of Rs. 1,20,000?

2. Briefly the facts, evident from the orders on record, are that the assessee being a labour contractor, filed his return of income for the assessment year in question declaring the same at Rs. 80,210 on October 3, 2001. The same was processed u/s 143(1) of the Act. However, the case of the assessee was picked up for scrutiny and a notice was accordingly issued. During the course of assessment, the assessee having not been able to satisfy the Assessing Officer, with regard to initial investment of Rs. 1,20,000 made by him, the claim to the

extent of Rs. 80,000 was disallowed and added to his income treating the same from undisclosed sources. Further, the assessee having a total receipt of Rs. 52,79,416 had shown the net profit at 1.52 per cent. of the gross receipts. Having failed to produce the books of account and vouchers to justify the expenses made against the gross receipts net profit rate was estimated at 8 per cent, by the Assessing Officer vide order dated January 15, 2004.

3. In appeal before the Commissioner of Income Tax (Appeals), the application of net profit rate at the rate of 8 per cent, was upheld whereas in spite of there being no satisfactory explanation, additional relief to the extent of Rs. 40,000 was granted on account of initial capital invested by the assessee. Still further in appeal before the Tribunal, the assessee failed on account of addition of Rs. 40,000 as initial investment, however, while estimating the gross profit rate, a relief of Rs. 80,210 was granted to the assessee thereby reducing the net profit rate from 8 per cent, to 6.5 per cent.

4. We have heard learned Counsel for the parties and with their assistance have perused the impugned order.

5. We do not find any justification to interfere in the order passed by the Tribunal which is in the realm of estimation. The assessee having failed to produce the books of account, an estimation of net profit rate was made by the Assessing Officer at the rate of 8 per cent., which was reduced to 6.5 per cent. by the Tribunal. We do not find any material on record to hold that estimation of net profit rate by the authorities below should be less than what has been estimated by the Tribunal. In the jurisdiction vested in this Court u/s 260A of the Act, this Court will not substitute its own opinion on estimation made by the authorities below when the view taken by the authorities is a possible view in the facts and circumstances of the case. Similar is the position with regard to addition on account of income from undisclosed sources where addition of Rs. 40,000 has been upheld. The appeal is accordingly dismissed.