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(2001) 07 P&H CK 0215

High Court Of Punjab And Haryana At Chandigarh

Case No: Income Tax A. No. 120 of 1999

Gulab Chand		APPELLANT
	Vs	
Commissioner of Income Tax and Another		RESPONDENT

Date of Decision: July 16, 2001

Acts Referred:

- Income Tax Act, 1961 - Section 260A

Citation: (2001) 171 CTR 132 : (2001) 252 ITR 719 : (2001) 119 TAXMAN 44

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench: Division Bench

Advocate: A.K. Mittal and Akshay Bhan, for the Appellant;

Judgement

Jawahar Lal Gupta, J.
The assessee has filed the appeal u/s 260A of the Income Tax Act, 1961. A few facts may be noticed.

2. The assessee''s premises were raided on September 26,1995. The assessee filed his return of income for the block period starting from the assessment year 1986-87 to the date of the raid. The Assessing Officer found that there was an undisclosed income of Rs. 15,53,020. The assessee was held liable to pay Rs. 9,31,812 by way of tax. Aggrieved by the order of the Assessing Officer, the appellant filed an appeal before the Income Tax Appellate Tribunal. His claim was partially allowed. A copy of the order passed by the Appellate Tribunal has been produced as annexure P-2. The assessee has filed the present appeal to challenge the order of the Tribunal.

3. Mr. Mittal, counsel for the appellant, has objected to the three additions upheld by the Tribunal. The first of these relates to the jewellery being 50.200 gms. Mr. Mittal contends that it belongs to the assessee''s daughter-in-law, Smt. Kiran Goyal, and has been wrongly added to the income of the assessee. Secondly, it has been contended that even in the case of jewellery of Smt. Sulochana Devi the Tribunal has

erred in upholding the addition of 20 gms. He further submits that the Tribunal has wrongly upheld the addition of the price of 13 kgs. of silver. Lastly, it has been contended that the Tribunal has not correctly assessed the income from agriculture.

4. After hearing learned counsel, we find that the entire evidence has been considered by the Tribunal. It has been found that the articles of jewellery as well as silver were found in the safe of the assessee. Wherever a believable explanation was offered, the claim of the assessee was accepted. However, in matters where no explanation was given, the addition was made. To illustrate, it may be observed that 455.200 gms. of jewellery was alleged to be belonging to Smt. Kiran Goyal. The assessee''s explanation in respect of 405 gms. of jewellery has been accepted. With regard to the remaining amount of jewellery, viz., 50.200 gms. it has been found that "no explanation has been rendered either before the Assessing Officer or before the Tribunal". It was also not explained as to how the jewellery had "found place in the safe of the assessee". Resultantly, the addition was made in respect of 50.200 gms. of jewellery. Similarly, in the case of Sulochana Devi it was found that she had 45 gms. of jewellery on her person. This statement was accepted. However, no explanation with regard to 20 gms. was given. Thus, the addition made by the Assessing Officer was upheld. As for silver, it is the admitted position that it was recovered from the appellant''s custody. Resultantly, an addition on that account was made. Nothing has been pointed out to show that the findings as recorded by the Tribunal are contrary to the evidence on the file.

5. Mr. Mittal contends that the income from agriculture has not been correctly assessed. The assessee was cultivating the land himself. Thus, the income should have been assessed at more than Rs. 9,000 per acre. This contention has been raised by learned counsel on instructions from the assessee, who is present in court. On this basis, it is claimed that the order passed by the Tribunal deserves to be set aside. Is it so ?

6. The Tribunal has examined the evidence available on the record and found that the income from land from the assessment years 1986-87 to 1990-91 can be fixed at Rs. 4,000 per acre. Keeping in view the fact that no accounts were produced, the view taken by the Tribunal does not appear to be unreasonable or unfair. If the assessee had produced accounts and shown the cost of inputs and the amount of other expenses as also the total yield, it may have been possible to find out the exact income, However, since it is the assessee''s own case that the account was not produced at the relevant time, the view taken by the Tribunal cannot be said to be wrong so as to call for any interference in the second appeal.

7. No other point has been raised.

8. In view of the above, we find no infirmity in the order so as to call for any interference. Accordingly, the appeal is dismissed.