

(2009) 01 P&H CK 0244

High Court Of Punjab And Haryana At Chandigarh

Case No: C.W.P. No. 1097 of 2009

Commissioner of
Income Tax-II,
Chandigarh

APPELLANT

Vs

Amarjit Singh
Randhawa

RESPONDENT

Date of Decision: Jan. 23, 2009

Acts Referred:

- Income Tax Act, 1961 - Section 234B

Hon'ble Judges: M.M. Kumar, J; H.S. Bhalla, J

Bench: Division Bench

Advocate: Yogesh Putney, for the Appellant;

Final Decision: Dismissed

Judgement

M.M. Kumar, J.

The revenue has challenged order dated 29-2-2008 (P-7) passed by the income tax Settlement Commission concluding that shown by assesses as loan from unsecured creditors stood sufficiently explained as every one of unsecured creditors had appeared before Assessing Officer and owed advancement of loan by stating that income derived by them is from agricultural land and they owned fertile agricultural land in the States of Punjab and Haryana. We have perused the order and also the statements of the unsecured creditors recorded by the Assessing Officer in pursuance to the direction issued by the Settlement Commission on 31-1-2007. It has been specified that the first Assessing Officer (Shri Pardeep Kumar) had already recorded the statements of various unsecured creditors who in categorical terms have accepted advancement of loan and also stated that the income derived by them is from agricultural land. The credit worthiness of the unsecured creditors has been accepted by the Settlement Commission and the attempt made by the subsequent Assessing Officer (Shri Anil Sharma) and the report submitted by him

stating that the assessee-respondent No. 1 has failed to produce any evidence, has not been accepted being against specific directions issued by the Settlement Commission on 31-1-2007. It is not a case where assessee-respondent No. 1 has been allowed to go scot-free but he been saddled with tax liability of Rs. 50 lacs after accepting partial explanation tendered by him In wake of statements made by unsecured creditors. Moreover, the request of. The assessee-respondent for waiver of interest u/s 234B of the income tax Act, 1961 was also rejected but his prayer for immunity from prosecution as well as penalty was accepted in view of the cooperation rendered by the assessee-respondent No. 1

2. Having heard learned counsel we find no jurisdictional error or error in law in the order passed by the Settlement Commission warranting admission. The appreciation of evidence by Settlement Commission be re-opened merely because another view possible. We could have admitted the matter had the other view was the only possible view. That position is not available in this case. The writ petition, therefore, fails and the same is dismissed.