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Bhagwandas Achchardeo Vs Commissioner of Income Tax

Income-tax Application No. 144 of 1990

Court: Allahabad High Court

Date of Decision: Feb. 4, 1991

Acts Referred:
Income Tax Act, 1961 â€" Section 256

Citation: (1991) 192 ITR 698 : (1991) 55 TAXMAN 412

Hon'ble Judges: B.P. Jeevan Reddy, C.J; R.A. Sharma, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

B.P. Jeevan Reddy, C.J.
By this application u/s 256(2) of the Income Tax Act, 1961, the petitioner seeks to have the following seven

questions referred to this court:

1. Whether the Tribunal was legally correct in upholding the addition to the income of the assessee-firm, Rs. 1,16,500, in the absence of any

finding or evidence to the effect that the cigarettes of the "Sales Promotion Free Scheme had actually been sold away by the assessee-firm ?

2. Whether the finding of the Tribunal and substance of addition of Rs. 1,16,500 being the value of the "Sales Promotion Free Scheme" cigarettes

for the distributor, are not vitiated in law as the same are based on non-consideration of various facts and circumstances as were relevant for the

purpose of deciding the issue before it ?

3. Whether there was any material before the Tribunal to come to the conclusion that the cigarettes of the "Sales Promotion Free Scheme" has

actually been sold away by the assessee-firm, which alone could have justified the addition of Rs. 1,16,500 to its income ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal is legally justified in not placing reliance on the statement on oath of Mr.

P.C. Jain, partner of the assessee-firm, stating that the statement "failed to inspire the least degree of confidence" even though on the basis of this

very statement, they have accepted that the cigarettes under consideration have been entered in the stock register to uphold the addition of Rs.

1,16,500?

5. Whether, on the facts and in the circumstances of the case, the Tribunal is legally justified in not placing reliance on the statement on oath of Mr.

B.K. Saxena, an employee of the distributor, stating that the statement "failed to inspire the least degree of confidence" even though the bills

prepared by him have been relied upon to sustain the addition of Rs. 1,16,500?

6. Whether the Tribunal was legally justified in upholding the addition of Rs. 1,16,500 being value of distributor, in total disregard of commercial

practices and the totality of the facts and circumstances of the case and in relying on surmises, conjectures and suspicions, irrelevant

considerations, improper rejection of material and relevant evidence and approving the perverse and misdirected findings of the authorities below ?

7. Whether the Tribunal"s order is legally sustainable for consideration of evidence which had been rejected by it ?

2. All these questions pertain to one single issue, namely, whether the cigarettes of a value of Rs. 1,16,500 said to have been distributed free in

pursuance of the ""Sales Promotion Free Scheme"", were actually so distributed free or whether they were sold by the assessee-firm.

3. All the authorities have recorded a concurrent finding of fact that they were really and actually sold, No reasons have been shown to us as to

why the said findings of fact should not be accepted nor is it shown how a question of law does arise from the order of the Tribunal.

4. The application is, accordingly, dismissed.