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Commissioner of Income Tax Vs Laxman Dass and Ram Murti

Income-tax Applications No"s. 62, 67, 68, 72, 75 and 82 of 1999

Court: Allahabad High Court

Date of Decision: Nov. 30, 1999

Acts Referred:
Income Tax Act, 1961 â€" Section 256(2)

Citation: (2000) 246 ITR 622

Hon'ble Judges: R.K. Singh, J; M.C. Agarwal, J

Bench: Division Bench

Advocate: Shambhu Chopra, for the Appellant; O.P. Sapra, for the Respondent

Final Decision: Dismissed

Judgement

1. Income Tax Applications Nos. 62, 82 and 72 are directed against a common order dated November 5, 1997, passed by the Income Tax

Appellate Tribunal, New Delhi, in I.T.A. Nos. 2753, 2754 and 2755 of 1997 for the assessment years 1989-90 to 1991-92, while Income Tax

Applications Nos. 75, 68 and 67 are directed against an order dated November 11, 1997, passed by the said Tribunal in I.T.A. Nos. 2750 to

2752 of 1997, for the same assessment years and in the subsequent order dated November 11, 1997, the Tribunal has followed its earlier order

dated November 5, 1997, referred to above. The Commissioner in these applications prays that the Appellate Tribunal be directed to state a case

and to refer the following"" identical question for the opinion of this court :

Whether, the Tribunal was legally correct in holding that the interest accrued and paid to the assessee on additional compensation is not taxable by

relying upon the order of the Supreme Court in the case reported upon Commissioner of Income Tax, West Bengal-II, Calcutta Vs. Hindustan

Housing and Land Development Trust Ltd., , ignoring the amendment to Section 45 of the Income Tax Act by the Finance Act, 1987, and also

overlooking the decision of the Supreme Court in the case of Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh

Hyderabad and Others, ?

2. We have heard Sri Shambhu Chopra, learned counsel for the Commissioner, and Sri O. P. Sapra learned counsel for the respondent. Some

agricultural land belonging to the two respondents was acquired under the Land Acquisition Act, 1894. The respondents were not satisfied with

the compensation awarded and seem to have approached the district judge u/s 18 of the Land Acquisition Act who awarded additional

compensation. Against the award of the district judge, the Government has preferred appeals which are stated to be pending in this court. Certain

amounts are said to have been received by the respondents towards the additional compensation and interest thereon and the question was about

the taxability of the amount of interest in respect of the additional compensation. The Tribunal found that the matter was sub-judice in the High

Court and, therefore, in view of the law laid down by the Supreme Court in Commissioner of Income Tax, West Bengal-II, Calcutta Vs.

Hindustan Housing and Land Development Trust Ltd., , the interest was not taxable till the dispute is finally settled. The Tribunal held that the case

was squarely covered by the decision of the Supreme Court and, therefore, the amount received by the two respondents was not taxable. In the

question as proposed reliance is placed on a decision of the Supreme Court in Rama Bai and Others Vs. Commissioner of Income Tax, Andhra

Pradesh Hyderabad and Others, , in which it was held that the interest on enhanced compensation ordered by the court accrues from year to year

from the date on which possession of the land was taken and that the assessment of the entire amount of interest in the year in which the order was

passed, was not proper. Thus, the controversy in Rama Bai and Others Vs. Commissioner of Income Tax, Andhra Pradesh Hyderabad and

Others, was different. The Tribunal has held that the grant of additional compensation and interest thereon has not become final and is sub-judice in

the High Court. This finding is not disputed. In Commissioner of Income Tax, West Bengal-II, Calcutta Vs. Hindustan Housing and Land

Development Trust Ltd., , the Supreme Court held that when the entire amount was in dispute in appeals filed by the State Government, there was

no absolute right to receive the amount at that stage. If the appeal was allowed in its entirety, the right to payment of enhanced compensation

would have fallen altogether and, therefore, the extra amount of compensation was not income arising or accruing to the respondents during the

previous year relevant to the assessment year 1956-57. The Supreme Court clarified that there is a distinction between the cases such as the

present one where the right to receive payment is in dispute and it is not a question of merely quantifying the amount to be received and the cases

where the right to receive the payment is admitted and the quantification only of the amount payable is left to be determined in accordance with the

settled or accepted principle. Therefore, the controversy that was raised before the Tribunal and is also sought to be raised in the proposed

question is already settled by the aforesaid judgment of the apex court and no referable question of law arises. The applications are accordingly

rejected.