
(2004) 270 ITR 157

Madhya Pradesh High Court

Case No: M.I.T.A. No. 5 of 2003

Commissioner of
Income Tax

APPELLANT

Vs

Mehrotra Brothers

RESPONDENT

Date of Decision: Feb. 5, 2003

Acts Referred:

- Income Tax Act, 1961 - Section 260A, 263

Citation: (2004) 270 ITR 157

Hon'ble Judges: Dipak Mishra, J; A.K. Shrivastava, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

1. This is an appeal u/s 260A of the Income Tax Act, 1961. At the outset we may mention that when this appeal was presented no question of law was framed by the appellant. Later on, two questions of law have been framed. They read as under :

"(1) Whether, on the facts and in the circumstances of the case, the learned Tribunal was justified for setting aside the order of the Commissioner of Income Tax u/s 263 of the Income Tax Act ?

(2) Whether, on the facts and in the circumstances of the case, the learned Tribunal was justified in accepting the cash credit only on the identity of the creditor without verification of capacity/credit worthiness of the creditors in the light of the judgment reported in [Shankar Industries Vs. Commissioner of Income Tax, Central](#), ; [Gee Vee Enterprise Vs. Additional Commissioner of Income Tax](#), ; [Commissioner of Income Tax Vs. Kohinoor Tobacco Products P. Ltd.](#), ; [Nanak Chandra Laxman Das Vs. Commissioner of Income Tax](#), and Malabar Industrial Co. Ltd.V. CIT [2000] 243 ITR 83 ?"

2. To appreciate the aforesaid questions of law which are urged to be substantial questions of law, we have perused the order passed by the Commissioner of Income Tax

(Appeals) as well as that of the Income Tax Appellate Tribunal. The Tribunal in paragraph 10 of the order dwelt upon the facts and came to hold as under :

"10. We have considered the citations relied on by both the parties and concluded that when the assessee has furnished requisite information and the Income Tax Officer has considered the records before him and completed the assessment after considering the evidence filed and after his satisfaction about the genuineness of cash credits, the order of revision u/s 263 on vague ground that the Assessing Officer did not make proper enquiry is not valid (CIT v. Ratlam Coal Ash Co. [1988] 171 ITR 141). The assessee furnished GIR/PAN number, address, confirmation from the creditors, the assessee has discharged the burden to prove the genuineness of parties and transaction in addition to the capacity satisfactorily as such there is no ground for addition ([Additional Commissioner of Income Tax Vs. Hanuman Agarwal](#),). In this regard the Department also has not brought any material to disprove the genuineness of the parties, capacity of the lenders and transactions on the basis of cogent facts on record. The hon"ble Supreme Court in the case of [Commissioner of Income Tax, Orissa Vs. Orissa Corporation \(P\) Ltd.](#), : "Held, that in this case the respondent had given the names and addresses of the alleged creditors. It was in the knowledge of the Revenue that the said creditors were Income Tax assesseees. Their index numbers were in the file of the Revenue. The Revenue apart from issuing notices u/s 131 at the instance of the respondent, did not pursue the matter further. The Revenue did not examine the source of income of the said alleged creditors to find out whether they were credit worthy. There was no effort made to pursue the so called alleged creditors. In those circumstances, the respondent could not do anything further. In the premises, if the Tribunal came to the conclusion that the respondent had discharged the burden that lay on it, then it could not be said that such a conclusion was unreasonable or perverse or based on no evidence."

3. The decisions of the Patna High Court in the case of [Commissioner of Income Tax Vs. Ram Prasad Ram Bhagat](#), ; [Addl. Commissioner of Income Tax Vs. Bahri Bros. P. Ltd.](#), , the Allahabad High Court in the case of [Sundar Lal Jain Vs. Commissioner of Income Tax](#), ; [Shankar Industries Vs. Commissioner of Income Tax, Central](#), and the Madhya Pradesh High Court in the case of [Commissioner of Income Tax Vs. Shiv Shakti Timbers](#), ; [Commissioner of Income Tax Vs. Shanti Swarup](#), ; [Commissioner of Income Tax Vs. Ram Narain Goel](#), Instrumed (India) International v. ITO [1999] 63 TTJ(Delhi) 191 assist the claim of the assessee. The assessee has explained satisfactorily the cash credits in the books of account of the firm and discharged the burden. The Department has not brought out material or evidence to rebut the same. As such the cash credits are not the income of the firm."

4. In view of the aforesaid finding of fact we are of the considered view that no substantial question of law is involved in this appeal.

5. Consequently, the appeal being sans merit, stands dismissed.