(2005) 01 MP CK 0044

Madhya Pradesh High Court (Indore Bench)

Case No: IT Appeal No. 81 of 2004

Assistant Commissioner of Income Tax		APPELLANT
	Vs	
Rajmal Bapulal		RESPONDENT

Date of Decision: Jan. 27, 2005

Acts Referred:

- Income Tax Act, 1961 - Section 158BC, 260A

Citation: (2005) 198 CTR 241 : (2008) 303 ITR 222

Hon'ble Judges: Ashok Kumar Tiwari, J; A.M. Sapre, J

Bench: Division Bench

Advocate: A.P. Patankar, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A.M. Sapre, J.
This is an appeal filed by the Revenue (IT Department) u/s 260A of the IT Act against an order dt. 30th April, 2004, passed by Tribunal in IT(SS)A 40/Ind/2002 and C.O. No. 13/Ind/2004.

2. In short, the question that arises for consideration in this appeal is, whether this appeal involves any substantial question of law as is required to be made out u/s 260A of the Act that being the prerequisite for admission of appeal.

3. Heard Shri A.P. Patankar, learned Counsel for the appellant.

4. Having heard learned Counsel for the appellant and having perused record of the case, we are of the opinion that the appeal does not involve any substantial question of law for consideration in this appeal and that two questions proposed by the appellant (Revenue) do not satisfy the rigour of substantial question of law within the meaning of Section 260A of the Act.

5. The issue relates to grant (sic) of certain deletion which were made by the AO in the course of block assessment proceedings initiated against the assessee u/s 158BC of the Act. The AO did not accept the explanation offered by assessee and treating the said amount to be that of assessee added in his total income. The CIT(A) as also the Tribunal set aside the order of AO insofar as it related to additions made by him (AO). In other words, the CIT(A) and Tribunal accepted the factual explanation coupled with the evidence tendered by assessee in relation to the impugned additions made by AO and held that since the same have been properly explained and hence, they cannot be included while computing the total income of the assessee. Since it was a case of raid, assessee was called upon to explain the source of income so as to enable the AO to determine the actual taxable liability arising out of the raid proceedings.

6. In our opinion, once the CIT(A) and then lastly the Tribunal have accepted the explanation of assessee and accordingly, deleted certain additions made by AO then it does not involve any substantial issue of law as such. In other words, this Court in its appellate jurisdiction which is defined u/s 260A ibid, cannot again de novo hold yet another inquiry with a view to find out whether explanation offered by assessee and which found acceptance to two appellate authorities namely--CIT(A) and Tribunal, is good or bad, or whether it was rightly accepted, or not. It is only when the factual finding is entirely de hors the subject or that it is based on no reasoning, or that it is absurd to the extent that no reasonable prudent man can ever reach to such conclusion, or that it is against the provision of law, a case for substantial question of law is made out.

7. In our view, no such error could be noticed by us in the impugned order. The Tribunal did go into the details of explanation offered by assessee and accepted the explanation thereby upholding the view of CIT(A). As a consequence, the certain additions made came to be deleted.

8. We thus, do not find any merit in the appeal. It fails and is dismissed in limine by holding that it does not involve any substantial question of law.