

(1983) 06 MP CK 0003

Madhya Pradesh High Court

Case No: Miscellaneous Civil Appeal No. 162 of 1980

Bhawandas	APPELLANT
Vs	
Commissioner of Income Tax	RESPONDENT

Date of Decision: June 23, 1983

Acts Referred:

- Income Tax Act, 1961 - Section 143(3), 256(2), 271(1)(c), 274(2)

Citation: (1983) 14 TAXMAN 508

Hon'ble Judges: R.K. Vijayvargiya, J; G.G. Sohani, J

Bench: Division Bench

Advocate: R.C. Mukati, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

G.G. Sohani, J.

This is an application u/s 256(2) of the income tax Act, 1961 ("the Act"). The material facts giving rise to this application briefly are as follows: The assessee, at the relevant time, was carrying on business of "Dalali in oil and oil seeds. For the assessment year 1968-69, the assessee filed a return on 28-6-1968 declaring an income of Rs. 11,840. The assessee subsequently filed a revised return disclosing income at Rs. 18,322. The ITO passed an assessment order u/s 143(3) of the Act and determined the total income of the assessee at Rs. 50,144. The ITO also commenced penalty proceedings u/s 271(1)(c) of the Act and referred the matter to the IAC u/s 274(2) of the Act. The IAC, after taking into consideration the explanation of the assessee, held that the assessee had deliberately concealed his income and a penalty of Rs. 50,000 was, accordingly, imposed on the assessee. On appeal, the Tribunal held that concealment of income to the extent of Rs. 16,850 only was proved beyond reasonable doubt and the Tribunal, therefore, partly allowed the appeal. Aggrieved by the order of the Tribunal, the assessee as well as the

department sought reference but those applications were rejected. Hence, the assessee has filed the present application.

2. Having heard the learned counsel for the parties, we have come to the conclusion that this application deserves to be dismissed. The Tribunal, after taking into consideration the material on record and the explanation of the assessee, found that concealment to the extent of Rs. 16,000 was proved beyond reasonable doubt. The learned counsel for the assessee referred to the decisions in Ratanlal Ramprasad Vs. Commissioner of Income Tax, , Commissioner of Income Tax Vs. Mohinder Singh, , Sunder Lal Mohinder Pal Vs. Commissioner of Income Tax, and Commissioner of Income Tax Vs. Suchitra Sen, . But those decisions are distinguishable on facts. In the instant case, the Tribunal has, after taking into consideration all the circumstances on record including the explanation of the assessee, upheld the finding of the IAC that there was conscious concealment to the extent of Rs. 16,850. In this view of the matter, no question of law arises in our opinion. The application is, therefore, rejected.