

(2001) 12 DEL CK 0122

Delhi High Court

Case No: IT Appeal No. 202 of 2001 21 December 2001

Vijay Kumar Talwar

APPELLANT

Vs

ITO

RESPONDENT

Date of Decision: Dec. 21, 2001

Citation: (2004) 139 TAXMAN 313

Hon'ble Judges: S.B. Sinha, C.J; J.S.B. Sinha, C.J; A.K. Sikri, J

Bench: Full Bench

Advocate: K.R. Manjani, for the assessed R.D. Jolly with Sanjiv Khanna, for the Revenue, for the Appellant;

Judgement

Learned counsel for the appellant has taken us through the purported question of law as specified in the memo of appeal as also the various documents filed therein. Learned counsel upon a query could only state that the substantial question of law which may arise for consideration of this court would be as to whether the order passed by the Income Tax Appellate Tribunal is perverse in so far as it fails to take into consideration the relevant facts and based its decision on irrelevant factors not germane to the purpose of passing the said order. We have, as noticed above, been taken through various documents including the extracts from books of account. To us it appears that the findings recorded by the Commissioner as also the Income Tax Appellate Tribunal are pure findings of fact. Appreciation of evidence does not fall within the realm of this court's jurisdiction u/s 260A of the Income Tax Act. The Income Tax Appellate Tribunal had on earlier, occasion remitted the matter for reassessment. The Commissioner in such reassessment proceedings observed as under :

"The appellant reiterated that the receipts represented business realisations of the firm prior to its dissolution. The appellant did not file any other details and could not produce the evidence in support of the aforesaid contention. Subsequently, however, addresses of parties and confirmations of seven parties were filed without their GIR Numbers. No information was filed in respect of two parties. All seven

confirmations were identically worded stating that they had dealings with the firm, Des Raj Tilak Raj, when it was in existence. It was stated by them that they had purchased the goods from the firm in the year ending on 31-3-1982, and made the payment before October, 1982. The accounts of the firm in their books of account were not filed as the matter was very old. Letters were issued by the assessing officer to these seven parties for verification. Out of the seven parties, letters to three parties were received back with the postal remarks not known, another with the remark no claim and one of the parties denied any business with the firm."

2. Learned counsel for the appellant thereafter has taken us through an order passed u/s 254(2) of the Income Tax Act from a perusal whereof it appears that the Tribunal has held that :

"We agree on this account that no such cash was found and to that extent the orders is directed to be rectified but at the very same time, it is also mentioned that this is the amount which is entered in the register as realisation from various parties. It is, however, clarified that on this account, no difference would be made in the conclusion drawn by the Tribunal while deciding this issue."

3. But despite the same, the learned Tribunal held that the said mistake would not result in any other inference. Having regard to the fact and circumstances of this case, we are, Therefore, of the opinion that no question of law far less any substantial question of law arises for consideration in this appeal. We are further of the view that the learned Tribunal while passing the said order dated 25-9-2001, u/s 254(2) having given sufficient cogent reasons, no interference thereof is called for.

4. Accordingly the appeal stands dismissed.