

(2002) 02 BOM CK 0112

Bombay High Court

Case No: Income-tax Appeal No"s. 1297 and 1298 of 2000

Commissioner of Income Tax

APPELLANT

Vs

Vikram A. Doshi and Ms. Leena V.
Doshi

RESPONDENT

Date of Decision: Feb. 26, 2002

Acts Referred:

- Income Tax Act, 1961 - Section 143, 158B, 260A

Citation: (2002) 256 ITR 129 : (2003) 127 TAXMAN 513

Hon'ble Judges: V.C. Daga, J; J.P. Devadhar, J

Bench: Division Bench

Advocate: R.V. Desai and P.S. Jetly and B.M. Chatterjee, instructed by H.D. Rathod, for the Appellant; J.D. Mistry, A.K. Jasani and N.S. Joshi, for the Respondent

Final Decision: Partly Allowed

Judgement

1. Heard rival parties.
2. Parties to both appeals are different but issues involved are identical. So, one single order will dispose of both appeals.
3. These are appeals filed by the Revenue. In the appeals more than five questions are raised for consideration of this court.
4. The first question sought to be raised in both these appeals is common which reads as under :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was justified in directing the Assessing Officer to add to the assessee"s income, interest on the peak credit of the unproved loans instead of the entire amount of interest thereon ?"

5. The above question is also interconnected with other appeals preferred by the present respondent/assessee bearing Appeals Nos. 1326 of 2000 and 1273 of 2000 which have been remanded back for hearing afresh for the reasons recorded therein. Thus, considering the interconnectivity of the above question involved in these appeals, we are of the opinion that these two appeals involving the above first question should also be remanded to the Tribunal for hearing afresh, so that this question can be dealt with by the Tribunal in the light of the question raised by the assessee/respondent in this behalf.

6. The other questions sought to be raised by the Revenue need no consideration as the issues raised therein are based on transactions which, by no stretch of imagination can be said to be undisclosed transactions falling u/s 158B of the Income Tax Act, since the transactions in question were disclosed in returns which were the subject-matter of regular assessment. The same ought to have been assessed in the regular assessment and not in the block assessment. We, therefore, affirm the conclusions or findings recorded by the Tribunal with respect to those transactions referred to in other questions sought to be canvassed, may be for additional different reason recorded herein.

7. In the result, both appeals are partly allowed. The appeals are remanded back to the Tribunal so as to consider only the first question afresh in accordance with the principles of natural justice. No order as to costs.