
(1991) 02 BOM CK 0095

Bombay High Court

Case No: Income-tax Reference No. 109 of 1977

Commissioner of
Income Tax

APPELLANT

Vs

Lullabhai Hirabhai

RESPONDENT

Date of Decision: Feb. 27, 1991

Acts Referred:

- Income Tax Act, 1961 - Section 271(1)

Citation: (1991) 190 ITR 427

Hon'ble Judges: T.D. Sugla, J; D.R. Dhanuka, J

Bench: Division Bench

Advocate: Dr. Balasubramaniam, for the Appellant; Ms. Vasanti Patel, for the Respondent

Judgement

T.D. Sugla, J.

The Income Tax Appellate Tribunal has referred to this court the following three questions as questions of law u/s 256(1) of the Income Tax Act, 1961 :

"(1) Whether, on the facts and in circumstances of the case, the Tribunal was right in law in holding that due to disclosure made by the assessee in part IV of the return, the assessee could not be said to have finished inaccurate particulars of income with the the meaning of section 271(1)(c) of the Act, and consequently, levy of penalty under the said section was not justified ?

(2) Whether the disclosure of the prize money receipts in Part IV of the return of income could be considered as true and full disclosure within the meaning of section 271(1)(c) of the Act ?

(3) Whether the Tribunal was right in law in holding that except for the falsity of the explanation of the assessee, it was not established by positive evidence by the Revenue that the impugned amount was income earned by the assessee during the year under appeal and, therefore, the penalty u/s 271(1)(c) of the Act cannot be sustained ?"

2. For the assessment year 1969-70, the total income of the assessee was computed at Rs. 1,18,938 which included prize money of Rs. 1,08,125. The assessee had shown this amount in Part IV of the return. However, the Income Tax Officer, while completing the assessment, recorded a finding that the provisions of section 271(1)(c) were attracted and referred the matter to the Inspecting Assistant Commissioner for imposition of penalty. The Inspecting Assistant Commissioner imposed a penalty of Rs. 1,25,000 after affording the assessee an opportunity of being heard, which was deleted by the Tribunal.

3. All the three questions raised herein revolve around the question whether the disclosure by the assessee of the information about the prize money in Part IV of the return absolves him from the obligation of disclosing fully and truly the said amount as his income. We are told Ms. Patel that, by our order dated February 22, 1991, in Income Tax Reference No. 128 of 1977, [Commissioner of Income Tax Vs. Dajibhai Kanjibhai](#), we have already held that when an assessee had disclosed particulars of his income in Part IV of the return, there is no concealment. Accordingly, we hold that the Tribunal was justified in cancelling the penalty. The questions are, accordingly, answered in the affirmative and in favour of the assessee.

4. No order as to costs.