

Commissioner Of Income-Tax, Kerala vs N.A. Mohamed Haneef on 15 September, 1971

Equivalent citations: [1972]83ITR215(SC), (1972)4SCC375, [1972]83STC215(SC)

Author: K.S. Hegde

Bench: A.N. Grover, K.S. Hegde

JUDGMENT

K.S. Hegde, J.

1. This is an appeal by special leave from the judgment of the High Court of Kerala in Income-tax Referred Case No. 11 of 1967 on its file.

2. The facts of the case lie within a narrow compass. The assessee carried on business as tin fabricator and oil miller. For the previous year ending on December 31, 1959, he returned an income of Rs. 52,280. One Mohideen Kunju was managing the affairs of the assessee. The assessee had obtained key loans and over-drafts from the Canara Bank Ltd. As per the balance-sheet of the assessee as on December 31, 1959, the total amount due to the Canara Bank Ltd. was Rs. 2,78,015.72. According to the information supplied by the Canara Bank Ltd. in response to the enquiry made by the Income-tax Officer, the amount due to that bank from the assessee was only Rs. 2,40,792.29 as on December 31, 1959. There was thus a difference of Rs. 31,858.78. The Income-tax Officer called upon the assessee to explain that discrepancy. The assessee's representative was not able to reconcile the discrepancy and the assessee wrote to the Income-tax Officer on March 11, 1964, to the effect that Mohideen Kunju who was managing his affairs was in charge of his business; he made the borrowings; he was maintaining the accounts; relationship between himself and Mohideen Kunju had become strained; hence he is unable to explain the discrepancy. In view of that explanation the Income-tax Officer brought to tax Rs. 31,858.78 as income from undisclosed sources. About that assessment, there is no dispute. After bringing to tax the said amount, the Income-tax Officer proceeded to levy penalty on the assessee on the ground that he had deliberately submitted a wrong return. The Tribunal accepted the case of the department and upheld the penalty imposed on the assessee. But, on a reference, the High Court set aside the order of the Tribunal. In view of the decision of this Court in Commissioner of Income-tax v. Anwar Ali, the decision of the High Court on the facts of the case must be held to be correct. There is no basis for coming to a firm conclusion that the assessee deliberately supplied wrong particulars.

3. In the result this appeal fails and the same is dismissed. No costs.