

Commissioner Of Income-Tax, West ... vs Padamchand Ramgopal on 20 April, 1970

Equivalent citations: AIR1970SC1575, [1970]76ITR719(SC), AIR 1970 SUPREME COURT 1575

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Bench: A.N. Grover, J.C. Shah, K.S. Hegde

JUDGMENT

K.S. Hegde J.

1. These appeals by certificate arise from the decision given by the High Court of Calcutta in five references made by the Income-tax Appellate Tribunal, Bench 'B', Calcutta under Section 66(2) of the Indian Income-tax Act, 1922. The High Court has answered the questions referred to it in favour of the assessee. In support of the return made by him, the assessee, a Hindu Undivided Family carrying on business in various items including money lending produced his account books. The Income-tax Officer rejected those accounts as unreliable and assessed the assessee on the basis of best judgment by adding to the income returned by him various sums ranging from Rs. 17,951 for the assessment year 1956-57, to Rs. 21,536 for the assessment year 1954-55. The five assessment years with which we are concerned in this case are 1953-54, 1954-55, 1955-56, 1956-57 and 1957-58. The Income-tax Officer in his order did not give any reason for not relying on the accounts submitted. On appeal, the Appellate Assistant Commissioner after going through the notes prepared by the Income-tax Officer found that in his investigation, the Income-tax Officer had found that one of the items of interest received by the assessee during the accounting year relating to the assessment year 1953-54 had not been brought to account and another entry relating to the receipt of income during that year was not correct. Neither the Appellate Assistant Commissioner nor the Income-tax Officer found any mistake in the accounts relating to other accounting years. The two mistakes noticed by the Appellate Assistant Commissioner are insignificant mistakes. Further they afforded no basis for rejecting the accounts for the other years. Both the Income-tax Officer as well as the Appellate Assistant Commissioner arbitrarily added to the total income returned half the amount of gross receipts shown by the assessee under the head "interest" during each year as escaped income. The tribunal did not examine the facts of the case afresh. It just adopted the findings of the Appellate Assistant Commissioner. The questions referred to the High Court was whether upon the facts admitted or found by the Appellate Tribunal, it was justified in holding that the Income-tax Officer had rightly added an income of Rs. 18050 in the assessment year 1953-54, Rs. 21536 in the assessment year 1954-55, Rs. 18321 in the assessment year 1955-56 and Rs. 17951 in the assessment year 1956-57 and Rs. 20547 in the assessment year 1957-58.

2. We are in agreement with the High Court that on the facts found by the tribunal, it was not justified in holding that the additions made by the Income-tax Officer were in accordance with law.

Those additions were arbitrarily made. No reasons were given to reject the accounts relating to the assessment years 1954-55, 1955-56, 1956-57 and 1957-58. Further the method adopted for determining the escaped income appears to be highly capricious.

In the result these appeals fail and the same are dismissed. Respondent was ex parte. No costs.