

Pandit Lakshmikanta Jha vs Commissioner Of Income-Tax on 19 February, 1969

Equivalent citations: [1970]75ITR790(SC)

Author: J.C. Shah

Bench: J.C. Shah, A.N. Grover

JUDGMENT

J.C. Shah, J.

1. The Income-tax Appellate Tribunal referred the following question (as directed by this Court) to the High Court of Patna under Section 66(2) of the Indian Income-tax Act for opinion :

Whether, under the facts and circumstances of the case, the amount of Rs. 1,30,785 being the excess of sale proceeds of the building, plant and machinery over the written down value of the business of the said newspaper publications could, in law, be termed to be income, profit and gain of the petitioner ?

2. For some time there was difference of opinion in the High Courts on the question whether it is open to the income-tax authorities in proceedings for assessment of tax to discard the legal character of a transaction and to determine "the substance of a transaction". But it has now been settled by several decisions of this Court that in taxing a receipt to income-tax the authorities are only concerned with the legal effect or character of the transaction and not the substance of the transaction.

3. See the judgment of this Court in Commissioner of Income-tax v. B.M. Kharwar Since C.A. No. 1678 of 1966, decided on August 13, 1968.

4. In the present case the transaction which gave rise to the receipt sought to be brought to tax was of the nature of sale; and it was not even contended that it was not intended to be a sale. It was argued, however, that the vendor and the purchaser being the same the profits arising there from were not taxable. That contention cannot be accepted. The High Court was, in our judgment, right in deciding against the assessee.

5. The appeal fails and is dismissed. No order as to costs.