

## **Income Tax Officer, New Delhi And Ors. vs Rattan Lal And Ors. on 10 August, 1983**

**Equivalent citations: AIR1984SC989, [1984]145ITR183(SC), 1986SUPP(1)SCC370, AIR 1984 SUPREME COURT 989, 1984 TAX. L. R. 583, (1984) 145 ITR 183, (1984) 38 CURTAXREP 382, 1986 SCC (SUPP) 370, 1984 UPTC 327, (1984) 73 TAXATION 111, (1984) 16 TAXMAN 25**

**Bench: D.P. Madon, V.B. Eradi, V.D. Tulzapurkar**

### **JUDGMENT**

1. In our opinion this appeal will have to be allowed in view of the decision of this Court in (Jamna Prasad Kanhaiyalal's case.)

2. Counsel for the assessee, however, urged before us that two points arise for decision in this case and that the decision of this Court in Jamna Prasad Kanhaiyalal's case does not cover both the points which have been decided by the High Court in favour of the assessee. We are unable to accept this contention, for, a careful perusal of that decision will show that both the aspects are covered and the entire basis of the impugned judgment of the High Court has been rightly overruled. On the question whether the immunity enjoyable by the declarants under Section 24 of the Finance (No. 2) Act of 1965 under the Voluntary Disclosure Scheme should be confined to the declarants or could be extended to the assessment of a third party (the assessee before the ITO), the aforesaid decision has ruled that such immunity is confined to the declarants alone. The other aspect which was sought to be pressed by Mr. Sharma before us was that the High Court on the facts of the case, had come to the conclusion that in view of the statutory provision contained in Section 24 of the Finance Act and the declarations of the declarants which had been accepted by the Commissioner of Income-tax thereunder, the initial onus which lay under Section 68 on the 1961. Act on the assessee to offer a satisfactory explanation shall be taken to have been discharged and the onus shifted thereafter on ITO to establish that the sums so credited were the income of the assessee which had not been discharged and the High Court had taken view that the provisions of the Finance Act do override the proviso of the 1961 Act, Even this aspect of the matter has been in terms dealt with by this Court in its aforesaid decision on pages 258-259 (of ITR) : at p. 1764 of AIR of the report while overruling the impugned judgment of the High Court. Court has expressly observed that there is nothing in Section 24 of the Finance Act which prevents the ITO, if he were not satisfied with the explanation of the assessee about the genuineness or source of amount found credited in his books, in spite of these having already been the subject matter of the declaration by the depositors/ creditors, include them as income of the assessee from undisclosed sources and there is no warrant for 'the submission that Section 24 has overriding effect over Section 68 of the I.-T. Act of 1961 in so far as the persons other than declarants are concerned. On the aspect of purported double taxation also this Court has held that there is no question of double taxation.

3. In this view of the matter we allow the appeal and set aside the impugned judgment of the High Court. The writ petition filed in High Court out of which this appeal has arisen is dismissed with costs throughout.