

In Re: Income-Tax Assessment Of ... vs Unknown on 8 January, 1952

Equivalent citations: AIR1953ALL81, [1952]21ITR330(ALL)

Author: V. Bhargava

Bench: V. Bhargava

JUDGMENT

Malik, C.J.

1. The following question has been referred to us under Section 66 (1), Income-tax Act :

"Whether, in the circumstances of the case and on the facts stated above, the sum of Rs. 11,265 paid by the assessee was an admissible deduction under Section 10 (2) (xv), Income-tax Act ?"

2. The assessee is a registered firm carrying on money-lending, sarraja and cloth business. The assessee was required under the War Risks (Goods) Insurance Ordinance (9 of 1940) to get his full quantity of stock insured. Year after year the assessee was getting his goods insured but for an amount far below the actual value of the stock that was in hand. Ultimately, the assessee was caught and notice was served on him to show cause why he should not be prosecuted. The matter was, however, compounded under Section 12 (A) of the said Ordinance and a sum of Rs. 16,895-8-0 was paid by the assessee to the Central Government to compound the offence. The assessee claimed the whole of this amount as a deductible expenditure under Section 10 (2) (xv), Income-tax Act, The Income-tax Appellate Tribunal, however, allowed the amount which would have been payable as premia for War Risk Insurance but disallowed the rest of the amount which came to Rs. 11,265. The question is whether this sum of Rs. 11,265 could be said, in the circumstances of the case, to have been wholly and exclusively expended for purposes of the business.

On the facts stated above which we have taken from the statement of the case and from the order of the Appellate Assistant Commissioner of Income-tax, it is clear that it is impossible to hold that the amount was spent wholly and exclusively for purposes of the business. It was not necessary for the assessee for purposes of his trade or business to declare the value of his goods at a figure far below their proper value. He did it not for the purpose of his business but for the purpose of making dishonest gain and when he compounded the matter with the Central Government, he did so to escape criminal prosecution. We think that, on the facts stated in the statement of the case, the only answer possible is that the amount of RS. 11,265 was not deductible under Section 10 (2) (xv), Income-tax Act.

3. We answer accordingly. The Commissioner of Income-tax is entitled to his costs which we assess at Rs. 300.