

The Commissioner of Income-Tax, Calcutta

Vs

Padamchand Ramgopal

Civil Appeals Nos. 2570 - 2574 of 1966

(J. C. Shah, K. S. Hegde, A. N. Grover JJ)

20.04.1970

JUDGMENT

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 questioned 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 year 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 to 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 Commission 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 Appellant Assistant Commissioner arbitrarily added to the total income returned half the amount of gross received 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 question 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. 18,050 in the assessment year 1953-54, Rs. 21,536 in the assessment year 1954-55 Rs. 18,321 in the assessment year 1955-56 and Rs. 17,951 in the assessment year 1956-57 and Rs. 20,547/- 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.

3. In the result these appeal fails and the same are dismissed. Respondent was ex parte. No costs.

</html