

I. M. Thapar and Others

Vs

Commissioner of Expenditure Tax, West Bengal - 1

Civil Appeal No. 44 of 1972

(G. K. Mitter, K. S. Hegde, P. Jagmohan Reddy JJ)

17.03.1972

JUDGMENT

HEGDE, J. -

1. This is an appeal by special leave from the order of the High Court of Calcutta dismissing the assessee's application under Section 25(3) of the Expenditure Tax Act.
2. The material facts are as follows. The assessee claimed that he had expended a sum of Rs. 1,51,000/- in the account year relevant to the assessment year 1960-61 for the marriages of his son and daughter. But the Tribunal came to the conclusion that he must have spent at least a sum of Rs. 2,51,000/- for these marriages. He was assessed accordingly under the Expenditure Tax Act. On the basis of that conclusion, it held in the assessee's income-tax proceedings for the said assessment years that the assessee had an income of rupees one lakh from undisclosed sources and brought that sum to tax. Aggrieved by the orders of the Tribunal the assessee moved the Tribunal to refer certain questions to the High Court for its opinion, both in the income-tax proceedings as well as in the expenditure tax proceedings. The Tribunal declined to do so. It came to the conclusion that its findings are findings of fact.
3. As against the orders of the Tribunal the assessee moved the High Court of Calcutta under Section 66(2) of the Indian Income Tax Act, 1922 as well as under Section 25(3) of the Expenditure Tax Act. The High Court partly allowed the application of the assessee under Section 66(2) of the Indian Income Tax Act and called upon the Tribunal to submit the question whether there was any material before the Tribunal to come to the conclusion that the assessee had any income from undisclosed sources. But when it came to the assessee's application under the Expenditure Tax Act it dismissed the same. This approach is clearly incongruous. As mentioned earlier, the very basis on which the Tribunal came to the conclusion that the assessee had an income of one lakh of rupees from undisclosed sources is that he must have spent at least rupees one lakh more than that shown by him in his return under the Expenditure Tax Act. If that is so, the two orders of the Tribunal are inextricably linked together. One must go with the other. In this view we set aside the order of the High Court and direct the Tribunal to submit to the High Court the following two questions :
 - (1) Whether there was any material before the Tribunal on which it could add a sum of Rs. 1,00,000/- as the marriage expenses incurred by the assessee during the relevant accounting year ?
 - (2) Whether the conclusion of the Tribunal that in addition to the expense of a sum of Rs. 1,51,000/- admitted by the assessee, a further expense at a lump figure of Rs.

1,00,000/- has been incurred on account of the marriage expenses was based on conjectures, suspicions and surmises and on a failure to consider the relevant evidence on record ?

4. The Tribunal will submit these questions with a statement of case to the High Court of Calcutta within three months of the receipt of the order. No costs.

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