

Radhe Shyam Tibrewal

Vs

Commissioner of Income-Tax, Assam and Others

Civil Appeal No. 938 (NT) of 1981

(V. D. Tulzapurkar, V. B. Eradi, D. P. Madon JJ)

10.08.1983

JUDGMENT

1. We have heard counsel for the assessee and the respondent.
2. We are satisfied that the question of law involved in this appeal is fully and conclusively covered by the decision of this Court in Jamnaprasad Kanhaiyalal case (Jamnaprasad Kanhaiyalal v. C.I.T., (1981) 130 ITR 244 : (1981) 3 SCC 441 : 1981 SCC (Tax) 236).
3. Counsel for the assessee, however, tried to distinguish this case on facts. But we are unable to see any difference. The Tribunal has recorded a finding of fact that the assessee has failed to prove that the transactions represented by the cash credit entries in his books were really genuine in the sense that the deposits had really been made by the depositors/creditors mentioned in the entries. Both the Tribunal as well as High Court have taken the view that the declarations made by the depositors/creditors under Section 24 of the Finance (No. 2) Act of 1965 (Act No. XV of 1965) under the Voluntary Disclosure Scheme (which were accepted by the Commissioner of Income-tax so far as the declarants were concerned) as well as the letters written by the alleged depositors (the two ladies in question) were relevant materials. But when such material was placed before the ITO he desired the assessee to call the two ladies for examination by they were not produced by the assessee for giving evidence before the ITO. In these circumstances the Tribunal as well as the High Court concluded that in the absence of any satisfactory proof in that behalf the Taxing Authorities were perfectly justified in holding that these amounts represented the assessee's own income from undisclosed courses. In this view of the matter we see no substance in this appeal which is dismissed with costs.

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