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Court : Allahabad

Decided On : Nov-17-2004

Reported in : [2005]144TAXMAN828(All)

Appeal No. : IT Reference No. 72 of 1986 17 November 2004

Appellant : Chater Sain

Respondent : Cit

Advocate for Pet/Ap. : Rakesh Kumar, *for the Assessee A.N. Mahajan, for the revenue.*

Judgement :

R.K. Agrawal, J.

The Income Tax Appellate Tribunal, Delhi, has referred the following question of law under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for opinion to this Court:

'Whether the Tribunal was correct in upholding levy of penalty of Rs. 6,000 under section 271(1)(c) of the Income Tax Act, 1961 in relation to the assessment year 1975-76?'

2. Briefly stated, the facts giving rise to the present reference are as follows:

The reference relates to imposition of penalty under section 271(1)(c) of the Act for the assessment year 1975-76. For the assessment year in question, the applicant has returned income of Rs. 13,049 in the status of individual. The income Tax Officer, vide order dated 13-3-1978, determined the taxable income at Rs. 25,060 which included an addition of Rs. 12,000 to the gross profit returned in respect of the business carried on under the name and style of M/s. Jindal Textiles. The aforesaid addition has been reduced to Rs. 6,000 by the Tribunal vide order dated 2-5-1980. The Income Tax Officer initiated proceedings for imposition of penalty under section 271(1)(c) of the Act in the course of the assessment proceeding itself. The applicant did not suit any reply nor had shown any cause to the notice issued for imposition of penalty and, therefore, the Income Tax Officer inferred that the applicant was guilty of concealment and imposed penalty of Rs. 12,000 under section 271(1)(c) of the Act. The Appellate Assistant Commissioner has upheld the imposition of penalty but reduced the amount to Rs. 6,000 which order has been upheld by the Tribunal.

3. We have heard Sri Rakesh Kumar, learned counsel for the applicant, and Sri A.N. Mahajan, learned Standing counsel appearing for the revenue.

4. We find that the returned income was less than 80 per cent of the assessed income as finally determined by the Tribunal. To the show-cause notice issued, for the reason best known, the applicant did not suit any reply. The Explanation to section 271(1)(c) of the Act was applicable and, therefore, the inference that the applicant had concealed the particulars of his income has rightly been drawn. In this view of the matter, the Tribunal has not committed any illegality in upholding the imposition of penalty.

5. In view of the foregoing discussion, we answer the question referred to us in the affirmative, i.e., in favour of the revenue and against the assessee. There shall be no order as to costs.