Cit Vs. Beta Nepthol Ltd.

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Court : Madhya Pradesh

Decided On : Aug-05-2004

Reported in : [2005]144TAXMAN397(MP)

Appeal No. : I.T.A. No. 65 of 1999 5 August 2004.

Appellant : Cit

Respondent : Beta Nepthol Ltd.

Advocate for Pet/Ap. : R. L. Jain *for the Revenue*.

Judgement :

A.M. Sapre J.

This is an appeal filed by the revenue (Income-tax department) under section 260A of the Income Tax Act, 1961, against an order, dated 3-3-1999, passed by the Income Tax Appellate Tribunal in I.T. (SS) A. No. 455/Ind of 1995.

2. In short, the question that arises for consideration in this appeal is, whether this appeal involves any substantial question of law as is required to be made out under section 260A of the Act that being the prerequisite for admission of appeal.

3. Heard Shri R. L. Jain, learned counsel for the appellant.

4. Having heard learned counsel for the appellant and having perused the record of the case, we are of the opinion that the appeal does not involve any substantial

question of law for consideration in this appeal and that two questions proposed by the appellant (Revenue) do not satisfy the rigour of substantial question of law within the meaning of section 260A of the Act.

5. The short question involved in this appeal is, whether the CIT(A) and the Tribunal were justified in setting aside of the penalty imposed by the assessing officer on the assessee under section 271(1)(c) of the Income Tax Act. In the opinion of both the authorities, i.e., the CIT(A) and the Tribunal, no case whatsoever is made out to invoke the provisions of section 271(1)(c) and hence, the order of penalty passed by the assessing officer was not sustainable. We concur with these findings and uphold it as in our,opinion, it does not call for any interference in our second appellate jurisdiction conferred upon us under section 260A of the Act.

6. It was a case where the assessing officer accepted the explanation offered by the assessee and did not impose any penalty whereas it confined only in respect of some items. The assessee had surrendered the items and paid the tax on the said items. The authorities, therefore, came to a conclusion that in such case no concealment of income as such arises within the meaning of section 271(1)(c) of the Act and hence, the question of penalty in such cases may not arise. This in our opinion does not involve any substantial question of law so as to meet the provisions of section 260A of the Act for admitting any appeal.

7. In view of the aforesaid discussion, we do not find any merit in this appeal, which in our opinion merits dismissal in limine. It is accordingly, dismissed in limine.