

Cit Vs. Chandra Associates

Cit Vs. Chandra Associates

SooperKanoon Citation : sooperkanoon.com/512175

Court : Madhya Pradesh

Decided On : Sep-11-2001

Reported in : (2002)172CTR(MP)31

Appeal No. : IT Appeal No. 59 of 2001 11 September 2001 A.Y. 1992-93

Appellant : Cit

Respondent : Chandra Associates

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

Judgement :

By the Court

Heard Shri R.L. Jain, learned counsel for the appellant, on the question of admission.

2. This appeal at the instance of the revenue has been preferred under section 260A of the Income Tax Act (hereinafter referred to as the Act) against the order dated 17-4-2001, passed by the Tribunal, whereby the order passed by the Commissioner, Bhopal, under section 263 of the Act has been set aside.

3. The assessment in this case was made by the Income Tax Officer Ward-II(1), Indore, vide order dated 19-12-1994, under section 143(3) of the Act of the firm known as M/s Chandra Associates, Dewas. After going through the assessment

record, the Commissioner was of the opinion that the assessment was erroneous and prejudicial to the interest of the revenue. Thus, proceedings under section 263 of the Act were initiated against the assessee. It is said that the notice was served on the assessee. Thereafter, an ex parte order by the Commissioner Bhopal, was passed on 29-11-1996. In this order of Commissioner, Bhopal, the assessment of the assessee was set aside with the directions to assessing officer to make enquiry in the light of the directions, contained in the said order after giving opportunity of hearing to the assessee.

4. This order was subject-matter of the challenge before the Tribunal at the instance of the assessee. Several grounds were urged before the Tribunal. But it appears that mainly two grounds were pressed into service. One of the grounds was that the assessee had filed a photo-copy of the partnership deed, whereas original deed was required to be filed under section 184 of the Act. This ground was allowed in favour of the assessee on account of concession recorded by the Departmental Representative that this requirement would stand fulfilled if all the partners have signed the photo-copy of the partnership deed and reliance was placed on provisions of section 184(2) of the Act. Thus, on this ground, the order passed by the Commissioner under section 263 of the Act was set aside.

5. The other ground was with regard to the loans in respect of eight parties. In para. 5 of the impugned order, it appears that the learned Departmental Representative conceded that the scope of section 269SS of the Act is altogether different than the scope of section 69 of the Act. Thus, this ground was also decided in favour of the assessee on account of the concession made by the Departmental Representative. The third ground was also conceded by the Departmental Representative.

In fact, the order sought to be impugned by the revenue in this appeal was passed on concession recorded at the instance of the Departmental Representative. We are afraid, against such an order, no appeal would lie, much less under section 260A of the Act. However, despite the aforesaid obstruction, we have still heard the learned counsel for the appellant but find that there does not exist any question of law involved in this appeal. Against the findings of fact recorded by the

Tribunal, no question of law arises. Thus, this appeal fails and is hereby dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com