

Vijay Kumar Talwar Vs. Cit

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Court : Delhi

Decided On : Dec-21-2001

Reported in : [2002]123TAXMAN181(Delhi)

Appeal No. : IT Appeal No. 66 of 2001 21 December 2001

Appellant : Vijay Kumar Talwar

Respondent : Cit

Advocate for Pet/Ap. : K.R. Manjani, for the assessed; R.D. Jolly and; Sanjeev Kha

Judgement :

The learned counsel for the appellant has taken us through the purported question of law as specified in the memo of appeal as also the various documents filed therein. The learned counsel upon a query could only state that the substantial question of law which may arise for consideration of this court would be as to whether the order passed by the Tribunal is perverse insofar as it fails to take into consideration the relevant facts and based its decision on irrelevant factors not germane for the purpose of passing the said order. We have, as noticed above, been taken through various documents including the extracts from books of account. To us it appears that the findings recorded by the Commissioner as also the Tribunal are pure findings of fact. Appreciation of evidence does not fall within the realm of this Court's jurisdiction under section 260A of the Income Tax Act,

1961. The Tribunal had on earlier occasion remitted the matter for reassessment. The Commissioner in such reassessment proceedings observed as under :

'The appellant reiterated that the receipts represented business realisations of the firm prior to its dissolution. The appellant did not file any other details and could not produce the evidence in support of the aforesaid contention. Subsequently, however, addresses of parties and confirmations of 7 parties were filed without their GIR Numbers. No information was filed in respect of two parties. All seven confirmations were identical, worded stating that they had dealing with the firm M/s. Des Raj Tilak Raj when it was in existence. It was stated by them that they had purchased the goods from the firm in the year ending on 31-3-1982 and made the payments before October 1982. The accounts of the firm in their books of account were not filed as the matter was very old. Letters were issued by the assessing officer to these seven parties for verification. Out of the seven parties, letters to three parties were received back with the postal remarks 'Not know', another with the remark 'No claim' and one of the parties denied any business with the firm.'

2. The learned counsel for the appellant thereafter has taken us through an order passed under section 254(2) of the Act from a perusal whereof it appears that the Tribunal (which is the subject-matter of Income Tax Appeal No. 202 of 2001) has held that :

'We agree on this account that no such cash was found and to that extent order is directed to be rectified but at the very same time, it is also mentioned that this is the amount which is entered in the register as realisation from various parties. It is, however, clarified that on this account, no difference would be made in the conclusions drawn by the Tribunal while deciding this issue.'

But despite the same, the learned Tribunal held that the said mistake would not result in any other inference. Having regard to the fact and circumstances of this case, we are, therefore, of the opinion that no question of law far less any substantial question of law arises for consideration in this appeal. We are further of the view that the learned Tribunal while passing the said order dated 25-9-2001 under section 254(2) having given sufficient cogent reasons, no interference

thereof is called for.

3. Accordingly, the appeal stands dismissed.

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