

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 21ST JANUARY 2008 / 1ST MAGHA 1929

ITA.No. 81 of 2001()

ITA.683/COCH/1994 of I.T.A.TRIBUNAL,COCHIN BENCH
.....

APPELLANT / APPELLANT :

M/S.MUTHOOT BANKERS,
NEAR IRON BRIDGE,
ALAPPUZHA.

BY ADV. SRI.P.BALACHANDRAN

RESPONDENTS:

1. INCOME TAX OFFICER, WARD - 1, ALAPPUZHA.
2. THE COMMISSIONER OF INCOME TAX, TRIVANDRUM.

BY ADV. SRI.P.K.R.MENON(SR.),SC FOR IT
SRI.GEORGE K. GEORGE, SC FOR IT

THIS INCOME TAX APPEAL HAVING BEEN FINALLY HEARD
ON 21/01/2008, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ITA 81/2001

ORDER ON CMP NO.4829/2001 IN ITA NO.81/2001

DISMISSED.

21/01/2008

SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

SD/- (T.R.RAMACHANDRAN NAIR, JUDGE)

// TRUE COPY //

PA TO JUDGE.

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C.N.RAMACHANDRAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

ITA No. 81 of 2001

Dated, this the 21st day of January, 2008

J U D G M E N T

C.N.Ramachandran Nair

The question raised in the appeal, filed by the assessee against Annexure E order of the Income Tax Appellate Tribunal, is whether the assessee was entitled for deduction of Rs.10,60,000/- paid to a partner, who was a minor.

2. We heard Shri.P.Balachandran, learned senior counsel appearing for appellant and learned standing counsel for respondents.

3. The assessee, who was engaged in money lending business, was following cash system accounting. Interest was credited on receipt basis and similarly payment of interest was also claimed and allowed on cash basis. The transactions claimed and disallowed is payment of interest of Rs.10,60,000/- stated to be made in cash in three lots of Rs.2,60,000/-, Rs.4,00,000/- and another Rs.4,00,000/- paid on the last but one previous date i.e. on 30/03/1991. The assessee explained the transactions as payment made and redeposit of the same amount by the minor, represented by her guardian and the Managing Partner. The Tribunal found that

the real transaction has not taken place because assessee did not have the cash balance to make payment. From the argument of the assessee itself, it is clear that this is only accounting manipulation and not real cash payment. The Tribunal, therefore, found that it was not a genuine transaction at all. We do not find any substantial question of law arising from the order of the Tribunal rendered after verifying the cash book and after satisfying that there was no funds to make payment of amount claimed. We, therefore, dismiss the appeal.

(C.N.RAMACHANDRAN NAIR, JUDGE)

(T.R.RAMACHANDRAN NAIR, JUDGE)