

IN THE HIGH COURT OF DELHI AT NEW DELHI

8.

ITA No. 972/2005

COMMISSIONER OF INCOME TAX DEL Appellant

Through Ms. P.L.Bansal, Advocate.

versus

BIMLA GOEL

..... Respondent

Through Mr. V.K.Sabarwal with Mr. Ashok Babbar, Advocates.

CORAM:

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE DR. JUSTICE S. MURALIDHAR

O R D E R

29.11.2007

The Revenue has preferred this appeal under Section 260A of the Income

Tax Act, 1961(Act) against an order dated 4th February, 2005 passed by the

Income Tax Appellate Tribunal, Bench E , Delhi (Tribunal) in IT(SS)A

No.180/DEL/2001 for the block period 1st April, 1987 to 2nd December, 1997.

The Revenue has urged three issues. The first concerns an addition of Rs.19,81,000/- made by the Assessing Officer (AO) on account of peak undisclosed investment. This Court, by its order dated 30th March 2007, held

that the said addition was rightly deleted by the Tribunal and therefore no substantial question of law arises in that regard.

The second issue relates to the addition of the sums of Rs.80,000/- and Rs.1,71,000/- made by the AO on account of the alleged failure by the Assessee to explain the sources of these amounts.

The facts relevant to this issue are that during the course of a search conducted under Section 132 of the Act at the residence of the Assessee

on 2nd December 1997, a document was seized which inter alia contained entries

of amounts of Rs.80,000/- and Rs.1,71,000/- in the name of Babita and Babu

respectively. The explanation offered by the Assessee was that he was not

keeping good health and, therefore, had kept some of his cash with Babita and

Smt. Bimla Goel (whose nick name was Babu) for his emergency medical treatment.

Although this explanation was not accepted by the AO, the CIT(A) accepted it and

deleted the addition. The Tribunal concurred with the view taken by the CIT(A)

and held that nothing had been brought on record by the Revenue to show that the

explanation offered by the Assessee was false.

After considering the submissions of learned counsel for the Revenue

as well as the orders under appeal, we too are of the view that the explanation

offered by the Assessee cannot be said to be improbable. There is no

perversity in the conclusion arrived at by both the CIT(A) as well as the

Tribunal. No substantial question of law arises.

The third issue pertains to the addition made by the AO in the sum of

Rs.6 lakhs on account of undisclosed investment. An entry was found in the

seized document showing the amount of Rs.6 lakhs with the description Pehle

Ke . The explanation offered by the Assessee was that this entry represented

the approximate receivables of an earlier period ending 31st March, 1997. It

was also pointed out by the Assessee that the loans and advances given by him

and his wife as on 31st March, 1997 were to an extent of Rs.5,85,060. However

the AO rejected this explanation and held that the Assessee had failed to reconcile the figure of Rs.6 lakhs with the receivables appearing in the balance sheet.

The CIT(A) reversed the finding of the AO and held that in the absence of any

corroborative evidence it could not be said that the document recovered represented the suppressed income of the Assessee. There was also nothing to

show that the transaction related to the year under reference. Concurring with

the view expressed by the CIT(A), the Tribunal held that the inference drawn by

the AO that the said entry represented unexplained investment was untenable

since nothing was brought on record during the course of the search or even

thereafter to substantiate the said conclusion.

Here again we find that concurrent views have been expressed by both

the CIT(A) as well as the Tribunal on an appreciation of the evidence. We do

not find anything in those orders which can be termed as perverse or contrary to

the record.

No substantial question of law arises.

Dismissed.

MADAN B. LOKUR, J

S. MURALIDHAR, J

NOVEMBER 29, 2007

dn