

Court No. - 7

Case :- INCOME TAX APPEAL No. - 11 of 2020

Appellant :- Suresh Chand Gupta

Respondent :-Principal Commissioner of Income Tax, Jhansi and another

Counsel for Appellant :- Suyash Agarwal

Counsel for Respondent Nos.1 & 2:- Praveen Kumar (Standing Counsel)

Hon'ble Biswanath Somadder,J.

Hon'ble Dr. Yogendra Kumar Srivastava,J.

This appeal under section 260-A of the Income Tax Act, 1961 (as amended till date), is in respect of a judgment and order dated 3rd September, 2019, passed by the learned Income Tax Appellate Tribunal, Agra Bench, Agra in I.T.A. No. 284 / Agra / 2017. The appellant has framed two substantial questions of law, which read as follows:-

- (i) “Whether the ITAT was legally justified in upholding the action of Assessing Officer reassessing the "interest income" of the appellant u/s 147 / 148 of the Act, when A.O. admittedly on account of oversight / mistake failed to assess the interest income which was duly disclosed in the books of accounts of the appellant?”
- (ii) “Whether on the basis of audit objection raised by the revenue audit party reassessment is permissible u/s 147 / 148 of the Act being change of opinion when the interest income of FDR's has been duly disclosed in the audited Profit & Loss A/c and Balance sheet filed along with the return of income?”

The provision of law which is relevant in the facts of the present case, is section 147 of the Income Tax Act, 1961, as it deals with income escaping assesment. This particular provision of law has since undergone several amendments whereby several provisos have been introduced. The Assessing Officer, being the Deputy

(2)

Commissioner of Income Tax-6, New Circle-2(3)(1) Jhansi, in the facts of the instant case made the following observations:-

"From the perusal of above computation it is clear that the Assessing Officer has work out profit on the basis of contract income and sub contract income and not added interest income by mistake. From the perusal of audited balance sheet of the assessee it is clear that the assessee himself shown Rs. 47,34,000/- as other income in schedule 12 of audited balance sheet. The case laws is not applicable in the case of assessee because the assessee himself shown interest on FDR's as other income and fact of the case is deferent. Therefore, no question arise of double addition in this case. Considering the above discussion the reply of the assessee is not acceptable and Rs.47,34,000/- is added in the income of the assessee."

The question as to whether the learned Tribunal was legally justified in upholding the action of the Assessing Officer reassessing the "interest income" of the appellant under sections 147 / 148 of the Income Tax Act, 1961, has to be answered in the affirmative notwithstanding the fact that the Assessing Officer, admittedly, on account of oversight / mistake failed to assess the interest income since there was no question of double addition which had arisen in this case.

A judgment of the Hon'ble Supreme Court which was referred to and relied upon by the learned advocate representing the appellant rendered on 3rd February, 1999, in **Commissioner of Income-Tax v. Corporation Bank Ltd.**, reported in (2002) 122 Taxman 826 (SC), has no manner of application at all in the facts of the instant case, since that judgment was rendered prior to the applicable law having undergone several amendments.

(3)

The questions of law, as framed by the appellant, are answered accordingly and the instant appeal, being Income Tax Appeal No.11 of 2020 is disposed of by affirming the judgment and order dated 3rd September, 2019, passed by the learned Income Tax Appellate Tribunal, Agra Bench, Agra in I.T.A. No.284 / Agra / 2017.

Order Date :- 10.2.2020

Neeraj

(Biswanath Somadder,J.)

(Dr. Y.K. Srivastava,J.)