

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 94 OF 2007

M/S. VIDEO MASTER

... Appellant

VERSUS

JOINT COMMNR. OF INCOME TAX

... Respondent

O R D E R

This appeal concerns M/s. Video Master, a partnership firm, which is the assessee and the appellant before us. The controversy relates to the assessment for the block period 01.01.1985 to 24.08.1995. On two dates, viz., 24.08.1995 and 25.08.1995, while a search operation under Section 132 of the Income Tax Act was carried out at various premises of the Time Video Group, one Shri Dhirajlal N. Shah made a statement on 25.08.1995 in answer to Question No. 9. He said to have disclosed that qua two of the movies with which his firm was concerned, the partnership firm had, in fact, undisclosed income amounting to Rs. 2 crores insofar as those films were concerned. This being the case, qua these two films, an addition of Rs.1,83,50,000/- was made by the Order-in-Original dated 25.09.1996.

In an appeal preferred by the assessee, the Income Tax Tribunal by its order dated 25.11.1997 remanded the case for fresh hearing. The Tribunal specifically stated that the confession made by the assessee partner on 25.08.1995 might not have been retracted in accordance with law, and was,

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therefore, still relevant, but could not be treated as conclusive. The matter was therefore, sent back to the Assessing Officer to give a fresh finding taking into account both, the statement made as well as other corroborative evidence.

In the second round, the Assessment Order dated 29.03.2000 gave detailed reasons for arriving at the conclusion that the figures stated in the Statement recorded were corroborated, in particular, by various loose sheets found at the premises of the assessee as well as vouchers, some of which related to the two films in question. In an appeal filed to the Tribunal, the Tribunal framed three issues, two of which were unnecessary for the reason that the statement recorded on 25.08.1995 was said to be relevant but not conclusive. Therefore, whether the statement was made under duress and whether it was retracted lawfully would have no relevance at this stage. However, the Tribunal went into these issues as well and ultimately, found that the statement could be used as evidence. Further, it examined other corroborative evidence referred to in the Assessment Order and arrived at a finding that the added income would be income which can be added under Section 158 BC for the block assessment period in question. In an appeal filed under Section 260A to the Bombay High Court, the High Court found, after narrating the facts, that no substantial question of law arises.

We are of the view, in accordance with the view of the High Court, that no substantial question of law arises. Further, though it was vehemently argued by Shri Devansh A. Mohta, learned counsel appearing for the assessee, that this was a case both of perversity and of there being no evidence at all. We find that not only are the findings of fact recorded in some detail but that it is not possible to say that this is a case of no evidence at all inasmuch as evidence in the form of the statement made by the assessee himself and other corroborative material are there on record.

In view thereof, we find no substance in the present appeal which is accordingly, dismissed.

....., J.
[A.K. SIKRI]

....., J.
[ROHINTON FALI NARIMAN]

New Delhi;
September 16, 2015.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 94/2007

M/S. VIDEO MASTER

Appellant(s)

VERSUS

JOINT COMMNR. OF INCOME TAX

Respondent(s)

Date : 16/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Appellant(s)

Mr. Devansh A. Mohta, Adv.
Mr. Vasudev J., Adv.
Mr. Shishir Deshpande, Adv.
Ms. Shikha Pandey, Adv.
Ms. Sujata Kurdukar, Adv.

For Respondent(s)

Mr. Jaideep Gupta, Sr. Adv.
Mr. Pravesh Thakur, Adv.
Mr. T. M. Singh, Adv.
Mr. B. V. Balaram Das, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(Nidhi Ahuja)
COURT MASTER

(Renu Diwan)
COURT MASTER

[Signed order is placed on the file.]