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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case (Income Tax Appeal) No.9 of 2017

Assistant Commissioner of Income Tax -1, Bhilai, District Durg, Chhattisgarh.
---- **Appellant**

Versus

Shri Trilok Singh Dhillon S/o Shri Surta Singh Dhillon, House No. 7A/1, Nehru Nagar (East), Bhilai, District Durg, Chhattisgarh.
---- Respondent

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Tax Case (Income Tax Appeal) No.10 of 2017

Assistant Commissioner of Income Tax -1, Bhilai, District Durg, Chhattisgarh.
---- **Appellant**

Versus

Shri Trilok Singh Dhillon S/o Shri Surta Singh Dhillon, House No. 7A/1, Nehru Nagar (East), Bhilai, District Durg, Chhattisgarh.
---- Respondent

For Appellants	:	Ms. Naushina Ali, Advocate.
For respondent	:	Shri SR Rao and Shri Manoj Kumar Sinha, Advocates.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board

Per, Thottathil B. Radhakrishnan, CJ

25/04/2017

1. These income tax appeals are by the revenue. The issue relates to assessment of Shri Trilok Singh Dhillon for two different years. We have heard learned Standing Counsel for the revenue and learned counsel appearing for the assessee.
2. For the relevant period, the assessee had income, including from his dealings in the business of liquor. For the assessment year, 2004-05, among other persons, Shri Amar Shrivastava, Shri Yuvraj Maneh, Shri Deepak Kumar and

Shri Narendra Sahu were treated by the assessing officer as Benamidars of the assessee. For the year, 2005-06, Shri Deepak Kumar and Shri Narendra Sahu were treated as Benamidars, among other persons. The assessment orders and the resulted appellate decision ultimately resulted in a remand to the assessing authority requiring examinations of the relevant materials to ascertain whether the persons named as Benamidars could be considered as Benamidars of the assessee and thereby the income referable to them could be added on to the income of the assessee Trilok Chand Dhillon to complete the assessment. In terms of the order of remand, which binds the assessee and the revenue, the twin conditions to be considered are (a) as to whether any investment of money by Trilok Chand Dhillon in the liquor business was referable to the aforesaid persons and (b) whether there was receipt of proof of the business back by Trilok Chand Dhillon. These were set out by the appellate Tribunal as vital ingredients to be considered, to treat the aforesaid persons as Benemidars of the assessee Trilok Chand Dhillon. The said direction of the Tribunal need no further examination at our hands since the revenue and the assessee are bound by that order of remand, which has become final.

3. After the remand, the assessment was completed by including the aforesaid persons also as Benamidars of the assessee. The CIT (Appeals) allowed the appeals of the assessee and held that the aforesaid persons were not to be included as Benamidars. The CIT (Appeals) through paragraph 3.3 of the separate decisions rendered in the two appeals gave reasons on facts and held that there was no material to hold that the twin conditions delineated by the Tribunal in its remand order were satisfied in the cases in hand. The revenue filed appeals to the Tribunal. It was held by the Tribunal that the CIT (Appeals) was justified in deciding on facts and setting aside the findings of

the assessing authority to the extent of inclusion of the aforesaid persons in the list of Benamidars of the assessee Trilok Chand Dhillon.

4. The questions answered by the Tribunal affirming the decision of the CIT (Appeals) are essentially questions of fact and mixed question of facts and law depending upon appreciation of materials and questions arrived at, to count, or not, a person as Benamidar in terms of the binding remand order that was rendered by the Tribunal in the earlier round. That position binding on the parties, we cannot but hold that no question of law arises in these appeals at the instance of the revenue.
5. For the aforesaid reasons, these appeals fail.
6. In the result, these appeals are dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge

inder