

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

I.T.T.A. No.117 of 2005

19.12.2017

Between:

V.Jagadeeswara Rao

..Appellant

And

DCIT, Central Circle, Vijayawada

..Respondent

Counsel for the appellant: Mr.A.V.A.Siva Kartikeya
for Mr.A.V.Krishna Kaundinya

Counsel for the respondent: Mrs.M.Kiranmayee,
standing counsel for the Income Tax Department

The Court made the following:



JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The appellant-assessee has raised the following substantial questions of law in the present appeal.

“1. Whether on the facts and circumstances of the case, the Hon'ble Tribunal is justified in upholding the initiation of proceedings u/Sec.158BD of the Income Tax Act, 1961 in the case of the appellant?

2. Whether on the facts and circumstances of the case, the Hon'ble Tribunal is justified in rejecting the claim of the appellant that the agricultural income and subsequent acquisition of property out of the agricultural income belonged to the HUF of the appellant?”

2. In connection with the first substantial question of law, the appellant-assessee raised the following ground before the Commissioner of Income Tax (Appeals).

“The AO erred in issuing notice u/s 158BD when there is no incriminating material in the seized documents relatable to the appellant.”

In his order, the Commissioner (Appeals) rejected the said ground by rendering a finding that a notice was issued to the appellant-assessee on the basis of the material seized from the premises of his father-in-law. The fact that incriminating material was seized from the father-in-law of the appellant-assessee is not disputed. The further fact that the father-in-law of the appellant-assessee forwarded all that material to the jurisdictional Assessing Officer is also not in dispute. Therefore, the finding rendered by the Commissioner (Appeals) based on the material does not give raise to any substantial question of law.

4. As regards the second substantial question of law, a perusal of the orders of both the appellate *fora* clearly shows that based on the material on record, they arrived at the concurrent finding that the house property was acquired by the appellant-assessee as well as his wife jointly and rejected the plea of the appellant-assessee that the same was acquired from out of the agricultural income belonging to Hindu Undivided Family (HUF). This finding is also based on appreciation of the material on record. Hence, no substantial question of law arises for consideration in this appeal.

5. The Appeal is, accordingly, dismissed.

C.V.NAGARJUNA REDDY, J

M.S.K.JAISWAL, J

19th December, 2017
GHN

