

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU**

I.T.T.A.NO.447 OF 2005

J U D G M E N T

(Per Hon'ble Sri Justice Sanjay Kumar)

This appeal by the assessee in relation to his block assessment for the assessment years 1994-95, 1995-96 and 1996-97 was admitted by this Court on 27.02.2006. The following substantial questions of law were raised by the assessee:

1. Whether on the facts and circumstances of the case, regular income assessable for the assessment years 1994-95, 1995-96 and 1996-97 comprising of salary and dividend income can be assessed as undisclosed income in the block assessment?
2. Whether on the facts and circumstances of the case, the assessee is entitled to deduction of the basic minimum amount not liable to tax for each of the assessment years viz. 1994-95, 1995-96 and 1996-97 while computing the undisclosed income?

The appellant-assessee was subjected to search operations on 27.09.1996 but the returns for the subject assessment years were filed by him only on 17.09.1998. Therein, the income declared by him was Rs.48,210/- for the assessment year 1994-95; Rs.47,750/- for the assessment year 1995-96; and Rs.1,24,170/- for the assessment year 1996-97. The aforestated amounts were treated as undisclosed income by the Assessing Officer (AO) and taxed accordingly. These undisclosed incomes were mainly attributable to salary income and dividends on shares.

In his appeal in IT (SS) A 28/V/98 before the Income Tax Appellate Tribunal, Visakhapatnam, the appellant-assessee

contended that the AO erred in treating the income of the three assessment years in question as undisclosed income. It was contended that mere non-filing of the returns in time would not, by itself, make the said income undisclosed income. The Tribunal however disagreed with this contention taking note of the fact that though the search took place on 27.09.1996, the appellant-assessee filed his returns for the three years in question nearly two years thereafter, on 17.09.1998. The returns were therefore filed not only beyond the time stipulated under Section 139(1) of the Income-tax Act, 1961 but also beyond the time allowed under Section 139(4) thereof. The Tribunal therefore found favour with the revenue's contention that as the appellant-assessee did not disclose the details of the income for these three years, it should be treated as undisclosed income in the block assessment.

Heard Sri Koteswara Rao, learned counsel representing Sri Y.Ratnakar, learned counsel for the appellant-assessee, and Sri K.Raji Reddy, learned senior standing counsel for revenue.

Upon consideration of the order under appeal and the material on record, we find that the undisputed facts put it beyond doubt that there was exorbitant delay on the part of the appellant-assessee in filing his returns after the search in the year 1996. Merely because the income covered by these belated returns was attributable to salary income and dividends on shares, the fact remains that the appellant-assessee did not choose to disclose the same. That being so, the revenue cannot be said to be at fault in treating the entire income reflected in the belated returns filed for these three years as undisclosed income and in denying the benefit of deduction of the

basic minimum amount not liable to tax for each of the said assessment years.

We therefore find no grounds to interfere with the order under appeal. The substantial questions of law raised are answered in favour of the revenue and against the appellant-assessee.

The appeal shall accordingly stand dismissed. No order as to costs.

SANJAY KUMAR, J

D.V.S.S.SOMAYAJULU, J

5th MARCH, 2018

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