IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25211-2015
Date of Decision: 28.01.2019

SH.SURINDER GUPTA. ....Petitioner.

Versus

COMMISSIONER OF INCOME TAX, CHANDIGARH AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE AVNEESH JHINGAN

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Present: Mr.Alok Mittal, Advocate for the petitioner.
Mr.Yogesh Putney, Advocate for the respondents.

AJAY TEWARI, J.(ORAL)

1. By this petition, the petitioner has challenged the issuance of notice dated 19.03.2015 under Section 147 and 148 of the Income Tax Act, 1961 (for short the Act) for the purpose of re-assess the income for the assessment year 2008-2009 and impugned order dated 02.11.2015.

2. The issue came up because of the complaint made by the petitioner himself in which he claimed that he had incurred expenses of Rs.50 lakhs on the marriage and had given 120 tolas of gold to the family of his daughter-in-law.

3. The challenge is that on the basis of this the re-opening of assessment is a fishing and roving inquiry. Learned counsel for the revenue has relied upon the decision of this Court in ***"Jagan Nath Singhal Vs. Deputy Commissioner of Income-Tax and another, 242 ITR 554 of P&H"*** wherein also a person had filed a complaint against his son-in-law in which he had stated that he had given certain amount as dowry and incurred

certain expenses and that having come to the notice of the Assessing Officer he had issued similarly a notice under Section 148 of the Act. In the aforesaid the Court relied upon the decision of the Supreme Court of India in ***Calcutta Discount Co. Ltd. Vs. ITO (1961) 41 ITR 191 (SC).*** This Court had held in Jagan Nath (supra) as under:-

> *"Applying the aforesaid tests to the present case, we have no hesitation in holding that the affidavit of the daughter of the petitioner formed a reasonable ground for the Assessing Officer to entertain a prima facie reason to believe about the escapement of income. It cannot, therefore, be held that the proceedings had been initiated without jurisdiction. We may, however, clarify that we have merely examined the validity of the proceedings at the initiation stage only and have not gone into the merits of the case of the assessee. The assessee would be free to lead evidence in the reassessment proceedings to show that the expenditure incurred by him on the marriage of his daughter was not Rs.7 to 8 lakhs but was Rs.70 to 80 thousand as alleged by him and, therefore, no income had escaped assessment.*
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> *With the above observations, the writ petition stands dismissed."*

4. The fact of the present case are identical. In the circumstances, the petition stands dismissed.

5. Since the main case has been decided, the pending application, if any, also stands disposed of.

28.01.2020 [AJAY TEWARI]
Raman JUDGE

[AVNEESH JHINGAN]
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable Yes/No