

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

ITA No.121-2022 (O&M)

Date of Decision:31.05.2022

Anil Kumar

.....Appellant

Versus

Commissioner of Income Tax, Karnal and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Susheel Gautam, Advocate for the appellant.

TEJINDER SINGH DHINDSA J.(Oral)

The instant appeal under Section 260-A of the Income Tax Act 1961 is directed against the order dated 25.11.2021 (Annexure A3) passed by the Income Tax Appellate Tribunal (Delhi Bench) 'A'; New Delhi.

Brief factual matrix emanating from the pleadings on record are that the appellant who claims to be in the business of trading as a wholesaler had filed return of income declaring taxable income of Rs.3,46,070/- for the assessment year 2013-2014.

During scrutiny proceedings, the Assessing Officer, called upon the appellant to furnish copy of bank accounts of certain firms under Section 133 (6) of the Income Tax Act 1961 (for short the 'Act'). Upon perusal of the bank accounts the Assessing Officer noticed that the appellant had made huge cash withdrawal which indicated that he was an entry operator. It was also found that the appellant had purchased goods from 21 firms whose addresses were either found to be not existing or such firms had refused to accept the service of notice under Section 131 of the Act. The Assessing

officer formed an opinion that the appellant had never supplied any items and had issued bills to give benefits to certain firms to inflate their expenses. Further the appellant had not furnished complete books of accounts alongwith vouchers. The provisions contained under Section 145 of the Act were invoked by the Assessing Officer thereby rejecting the books of account. By reckoning the trade practice in the case of entry operators, the Assessing Officer took a view that the appellant must have charged 10% of these entries and accordingly assessed the total income of the assessee at Rs.1,07,76,050/- @ 10% being in the business of providing entries to various businessmen.

Appellant then filed an appeal before the CIT appeals which was partly allowed and in the following terms:-

3.3 Findings:-

A perusal of the facts of the case reveal that even before the undersigned, the appellant has agreed to the fact that he provided accommodation entries to dealers in order to help reduce their tax liabilities. The Assessing Officer has clearly mentioned that complete books of accounts vouchers etc. were not produced and, hence, the books were rightly rejected and an estimate made of the income earned out of the entries provided. The Assessing Officer has pegged the income @ 10% of Rs.10,77,60,505/- (the figure shown as the appellant's turnover). However, the rate of 10% appears to be on the higher side as normally the payouts for arranging accommodation entries range on an range between 2.5% to 3.5%. I, therefore, peg the rate reasonably applicable at calculating the income @ 3% of Rs./10,77,60,505/- which comes to Rs.32,32,815/-. After

adjusting with the returned income of Rs.3,46,070/- the total income is calculated at Rs.28,86,745/-. The appellant gets a relief of Rs.75,43,235/-

Against the order passed by the CIT (Appeals) matter was carried to the Income Tax, Appellate Tribunal and which has led to the passing of the impugned order dated 25.11.2021 at Annexure A-3.

Resultantly, the instant appeal under Section 260-A of the Act.

Counsel has argued that a vital aspect has been overlooked inasmuch the Assessing Officer pertaining to the Assessment year 2014-15 has made assessment by taking income @ 0.5 % on the total turnover shown by the appellant. Further urged that there was no difference in the nature of business of the appellant during the year in question i.e. assessment year 2013-14 and assessment year 2014-15. Categorical submission is made that the appellant would be agreeable with the amount/income to be calculated @ 0.5% of the total turnover worth Rs. 109532827/- for the assessment year 2013-2014.

No other contention has been raised.

Having heard counsel at length, we are of the considered view that the instant appeal does not raise any question of law much less substantial question of law and deserves to be dismissed.

In the impugned order dated 25.11.2021 passed by the Income Tax Appellate Tribunal at Annexure A-3, a finding has been returned that insofar as the assessment years 2014-15 and 2015-16 are concerned, there is no material to indicate that the appellant had ventured into providing accommodation entries to the dealers to help them reduce the

assessment years 2014-15 and 2015-16 are concerned the appellant had been seen as dealing in wholesale business of trading and as such the revenue itself had accepted 0.5 % ratio on the total billing to assess income of the assessee. Such distinguishing feature between the assessment year in question i.e. 2013-14 on the one hand and the assessment years 2014-15 and 2015-16 on the other hand could not be demolished at the hands of the appellant.

It is a pure finding of fact which would not require any intervention at the hands of this Court while considering an appeal under Section 260-A of the Act.

We find that the order dated 25.11.2021 passed by the Income Tax Appellate Tribunal is founded on sound and cogent reasoning. The same does not suffer from any legal infirmity.

There is no merit in the instant appeal.

Dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

31.05.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No