

SC: High Court couldn't dismiss an appeal with non-speaking order and without addressing question of law

Summary – The Supreme Court of India in a recent case of Rattan Babulal Poddar, (the Assessee) held that High Court could not dismiss an appeal without addressing substantial question of law, by a cryptic and non-speaking order without assigning appropriate reasons.

ORDER

These appeals are directed against the order passed by the High Court of Bombay in Income Tax Appeal Nos. 49 and 152 of 2010 dated 12.10.2011.

By the impugned order(s) the High Court has dismissed the appeals filed by the revenue. The said order passed by the High Court reads as under:

"Heard.

Perusal of Para 13 of the order passed by Commissioner of Income Tax [Appeals-II], Nagpur, reveals that there are concurrent findings that for the period from 1st October, 2004 upto 31 March, 2005, the provisions of Section 194C of the Income Tax Act, 1961 [as amended with effect from 01.10.2004] have been applied.

We, therefore, find no substantial question of law arising in the matter. Appeal is rejected."

The revenue being aggrieved by the order(s) passed by the Income Tax Appellate Tribunal, Nagpur Bench in ITA No. 75/NAG/2009 and ITA 76/NAG/2009 for the assessment year 2005-2006 had filed Income Tax Appeal(s) before the High Court. In the said appeals, the revenue had taken up four questions of law for consideration and decision by the High Court. The questions of law that were raised by the Revenue are as under:

- "(1) Whether on the facts and circumstances of the case the Hon'ble ITAT was justified in law in holding that there were no contracts between the assessee and the truck owners to whom the freight payments were made to be hit by the provision of section 194C of the Act?
- (2) Whether on the facts and circumstances of the case the ITAT was justified in law in holding that in view of the CBDT circular No. 715 dated 8.8.1995 the assessee could not be held as defaulter within the meaning of provision of Section 194C of the I.T. Act, 1961?
- (3) Whether on the facts and circumstances of the case the ITAT was justified in laws in

confirming the order of the CIT(A) and thereby upholding deletion of disallowance of Rs. 1,53,79,209/- made u/s 40(a)(ia) of the I.T. Act?

- (4) Whether on the facts and circumstances of the case the ITAT has perversely appreciated the facts resulting in serious miscarriage of justice warranting interference at the hands of the Hon'ble Court?"

The High Court without even advertng to any one of the questions of law that were raised and canvassed before it, by a cryptic and non-speaking order had dismissed the Income Tax Appeals. Aggrieved by the order passed by the High Court the revenue is before us in these civil appeals.

Te SC reiterated that it has time and again said that High Court while disposing of an appeal should first raise substantial question of law for consideration and decision and thereafter decide the same by a speaking order by assigning appropriate reasons. To say the least, the order passed by the High Court dated 12.10.2011 does not contain any reasons whatsoever for dismissal of the Income Tax Appeals. In our opinion, an order which does not contain reasons is no order in the eye of law and requires to be set aside.

Therefore, the SC set aside the order(s) passed by the High Court and remand the matter back to the High Court for fresh disposal in accordance with law. We request the High Court to consider each question of law framed by the Revenue after affording opportunity of hearing to the parties concerned.

The appeals are, accordingly, disposed of.

All the contentions raised by both the parties are kept open to be agitated before the High Court.

The SC clarified that it had not expressed any opinion on the merits or de-merits of the case.