

Interim award received in pursuance of order of HC couldn't be taxed until final decision of HC was pronounced

Summary – The High Court of Karnataka in a recent case of L. Sambashiva Reddy, (the Assessee) held that Interim award received by assessee pursuant to order of High Court is not liable to tax in year of receipt but in year when final award is passed by High Court

Facts

- During relevant assessment year, the assessee received certain amount in pursuance of interim award of the arbitrator. He did not offer said amount to tax.
- Assessing authority added said amount to total income, on ground that award received was in pursuance to contract work executed by assessee during assessment year 1983-84.
- On appeal, the Commissioner (Appeals) deleted the addition on ground that said amount would be brought under tax net during assessment year in which final decision of the High Court would be delivered.
- On revenue's appeal, the Tribunal upheld the order of the Commissioner (Appeals).
- On revenue's appeal :

Held

- As settled by various judgments, income-tax is not levied on mere right to receive compensation; there must be something tangible, in nature of debt or in nature of an obligation to pay an ascertained amount. Till such time, no income can be said to have accrued. The enhanced compensation accrues only when it becomes payable, *i.e.*, when the Court accepts the claim.
- When assessee receives money, either under an award or by a decree of the Court, or under an award passed by the arbitrator, if the amount paid to him is not in dispute, then that amount represents his income. He should offer it to tax in the previous year of date of payment of the said amount. But if amount due to him is in dispute and is subject-matter of litigation and during pendency of litigation, if any interim order is made for payment of the said amount, the said payment is subject to the final result of the said proceedings. In case where assessee loses legal battle, then amount received by way of interim payment, has to be repaid. The amount to which he is entitled to out of the disputed amount would crystallize only when the litigation ends and payment is made after the finality of the litigation, then that amount is to be offered to tax in the previous year of the date of payment. Merely because by virtue of an interim order with or without conditions, some payment is made for the purpose of the Act, it would not constitute income and, therefore, there is no liability to pay tax on the day such interim payment is received. Therefore, in

present case, assessee is liable to pay tax on amount in question, only after final conclusion of dispute before High Court.