

Additional evidence was to be admitted if it was relevant for calculating actual income: HC

Summary – The High Court of Punjab & Haryana in a recent case of Daljit Singh Sra, (the Assessee) held that where additional evidences filed under rule 46A was relevant for calculation of real income of assessee, same was to be admitted

Facts

- The assessee filed his return of income declaring an income of Rs. 39 lakhs. The case was taken up for scrutiny and was assessed under section 144 at an income of Rs. 1.16 crores plus agricultural income of Rs. 3.9 lakhs. During the course of assessment proceedings, the assessee failed to produce books of account, bills and vouchers for examination inspite of being given various opportunities to do so. The Assessing Officer made assessment under section 144 and adopted net profit rate of 7.47 per cent on gross turnover of the assessee *i.e.* the rate which was declared by the assessee in the immediate preceding previous year.
- The Assessing Officer observed that the assessee leased out his 13 acres of agricultural land at the rate of Rs. 30,000/- per acre per year and the amount was credited to his capital account. Hence, the Assessing Officer added the agricultural income of Rs. 3.9 lakhs to the returned income for rate purposes. Further, deduction of Rs. 1 lakh claimed by the assessee under Chapter VIA was disallowed in the absence of any evidence.
- Before the Commissioner (Appeals), the assessee filed an application under section 250, read with rule 46A of the Income-tax Rules, 1962. The said application was not admitted by the Commissioner (Appeals) holding that the assessee was given various opportunities to produce books of account and thus his case was not covered under rule 46A of the Rules. The Commissioner (Appeals), dismissed the appeal.
- On appeal, the Tribunal directed the Commissioner (Appeals) to admit additional evidence and decide the case afresh after affording reasonable opportunity to the assessee of being heard by holding that to deliver natural justice despite the non-co-operative attitude of the assessee towards assessment proceedings, real income was to be assessed.
- On appeal to the High Court:

Held

- The matter was examined by the Tribunal in detail on the basis of the entire material available on record. It was noticed by the Tribunal that the assessment was completed under section 144 as the assessee did not co-operate in assessment proceedings. On account of sickness of the assessee, he wanted to file additional evidence under rule 46A of the rules before the Commissioner (Appeals). It has been recorded by the Tribunal that no doubt the assessee did not co-operate with the Assessing Officer in completion of the assessment proceedings and that the books of account etc were not produced inspite of opportunity but the said evidence might have been relevant for the calculation

of the real income of the assessee. The Tribunal keeping in view the overall facts and circumstances of the case rightly directed the Commissioner (Appeals) to admit additional evidence and decide the case afresh after affording reasonable opportunity to the assessee of being heard.

- In view of the above facts and circumstances, there is no doubt assessee did not co-operate with the Assessing Officer in completion of assessment proceedings but the fact remains that in the delivery of justice the real income of assessee has to be assessed and that too after hearing the assessee. The Commissioner (Appeals) has not commented upon the nature of evidence filed under rule 46A. Such evidence might have been relevant for the calculation of real income of the assessee, therefore, in view of the substantial justice, Commissioner (Appeals) was directed to admit additional evidence and decide the case afresh after affording a reasonable opportunity to the assessee of being heard.