

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

ITA No.6 of 2001

Reserved on: 7.7.2009

Decided on:31.7. 2009

Commissioner of Income Tax

...Appellant.

Versus

M/s Vicky Foods (Private) Limited.

...Respondent.

Coram

The Hon'ble Mr. Justice Jagdish Bhalla, C.J.

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting ?¹.

For the Appellant : Mr. Vinay Kuthiala, Advocate.

For the Respondent : Mr. M.M. Khanna, Sr. Advocate with Mr. Goverdhan Sharma, Advocate.

The core question on which the arguments have been advanced by the learned counsel for the appellant is that: "whether when there was no taxable income or tax assessed for payment during a particular year, the question of evasion of tax and consequently penalty under section 271 (1) (c) does not arise?

The Department has sought to impose penalty upon the assessee under section 271 (1) (c) of the Income Tax Act, 1961. The appellate

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

authority on the basis of the judgment rendered by the Punjab and Haryana High Court in ***CIT versus Prithipal Singh and Company***, 183 ITR 69 held that Assessing Officer was not justified in imposing the impugned penalty when returned/assessed income was in loss. The penalty imposed was quashed by the appellate authority on 7.11.2000. The judgment ***CIT versus Prithipal Singh and Company***, 183 ITR 69 relied upon by the appellate authority was affirmed by the Hon'ble Supreme Court in ***Commissioner of Income Tax versus Prithipal Singh and Company***, 249 ITR 670.

Accordingly, we are of the considered opinion that the question raised by way of present appeal is no more res integra in view of the judgment of the Punjab and Haryana High Court being affirmed by the Hon'ble Supreme Court in ***Commissioner of Income Tax versus Prithipal Singh and Company***, 249 ITR 670.

Consequently, the substantial question is answered accordingly and the appeal is dismissed. No costs.

(Jagdish Bhalla), C.J.

31.7. 2009
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(Rajiv Sharma), J.