

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5216/2008

M/S.N.K.JEWELLERS & ANR.

Appellant(s)

VERSUS

COMMISSION OF INCOME TAX, NEW DELHI

Respondent(s)

O R D E R

The present appeal arises out of the order dated 23rd February, 2007 in ITA No.236/2007 passed by the Delhi High Court whereby the High Court has held that no substantial question of law arose for its consideration and it was merely a matter decided on the evidence on record.

We have heard learned counsel for the parties.

On a perusal of the impugned order, we find that on 27.05.2000 the employee of the appellant was returning from Amritsar by train No.2030, Swarn Shatabdi Express and he was found in the possession of Rs.30 lacs cash in a search by Railway Police. The SHO, GRP Station, Jalandhar after making enquiries from the concerned employee registered a case under Sections 411/414 of the Indian Penal Code on 27.05.2000. The report written by the SHO, GRP is as follows:

"The accused is working for 5-6 months with his cousin (Bhua's son) Shri Neeraj Kumar who is running a jewellery shop in

Shop No.2230, Usha Market, Kinari Bazar, Old Delhi. Shri Neeraj Kumar is resident of D-271, Nirman Vihar, Delhi. On 26.5.2000 he got reserved his onward and inward journey for 27.5.2000 in Train No.2029 up and 2030 down, Shatabdi Express and on 27.05.2000 in the morning he carried 40 biscuits of gold each weighing 116 grams reached Amritsar through Shatabdi Express and by hiring three wheeler reached Shakti Nagar Chowk where Babbu Jeweller met him and took him to his residence near Shakti Nagar Chowk. He gave Mr. Babbu 40 gold biscuits and in return received the cost of 40 gold biscuits and previous balance totaling in all to Rs.30 lacs. He started from Amritsar to Delhi by 2030 down Swaran Shatabdi Express and was produced before you by the Escort-in-Charge of the train. The gold biscuits were given by Shri Neeraj Kumar and the money was also to be given to him."

The said information was received by the Investigation Unit, Jalandhar from SHO, GRP Station Jalandhar on 29.05.2000. Warrant of authorisation u/s 132A of the Income Tax Act, 1961, (hereinafter referred to as the Act), was obtained from the Director of Income Tax, Ludhiana and the cash of Rs.30 lacs was requisitioned on 03.06.2000 and seized. Proceeding for assessment for the block period from 01.04.1991 to

03.06.2000 under Section 158BD of the Act was initiated.

The explanation of the appellant before the Assessing Authority was that his employee had gone to Amritsar to make some purchases of gold but the transaction did not materialize. The Assessing Officer was of the view that the amount represented sales of gold made by the appellant on earlier occasions and the sale proceeds were being carried back to Delhi. After considering the statements of various persons and other material on record, the authorities came to the conclusion that it was concealed income and accordingly the appellant was assessed to tax.

Before us the learned counsel for the appellant submitted that the proceedings initiated under Section 132 of the Act were invalid for the reason that it cannot be based on a search conducted on a train by the police authorities and, therefore, the proceedings initiated for block assessment period 1st April, 1991 to 3rd June, 2000 are without jurisdiction.

This plea was not raised by the appellant before any of the authorities. Further, we find that in view of the amendment made in Section 132A of the Income Tax Act, 1961 by Finance Act of 2017, the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority

or the Appellate Tribunal as recorded by Income Tax Authority under Section 132 or Section 132A. We, therefore, cannot go into that question at all. Even otherwise, we find that the explanation given by the appellant regarding the amount of cash of Rs.30 lacs found by the GRP and seized by the authorities has been disbelieved and has been treated as income not recorded in the Books of Account maintained by it.

In view of the above, we do not find infirmity in the order passed by the High Court.

Accordingly, the Civil Appeal is dismissed.

.....J.
[R.K. AGRAWAL]

.....J.
[DR. D.Y. CHANDRACHUD]

NEW DELHI;
SEPTEMBER 13, 2017.

ITEM NO.105

COURT NO.8

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Date : 13-09-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Appellant(s) Mr. Y.K. Kapur, Adv.
Ms. Mahua Kalra, AOR
Mr. Bhushan Kapur, Adv.

For Respondent(s) Mr. Rana Mukherjee, Sr. Adv.
Mr. Arijit Prasad, Adv.
Ms. Swarupama Chaturvedi, Adv.
Ms. Anukanksha S. Kalkeri, Adv.

Mrs. Anil Katiyar, AOR
Mr. B. V. Balaram Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

The Civil Appeal is dismissed in terms of the
signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)
COURT MASTER

(CHANDER BALA)
COURT MASTER

(Signed order is placed on the file)