THE INCOME TAX OFFICER v. RAJENDRA PRASAD VAISH

Rajasthan High Court, Jaipur Bench | S.B. Criminal Appeal No. 543/1991 | Order dated 02 April 2024 | Reportable

CORAM AND PARTIES

Hon'ble Mr. Justice Anoop Kumar Dhand. Appellant: The Income Tax Officer, Ward-2, Ajmer (Rajasthan). Respondent: Rajendra Prasad Vaish, S/o Shri Banshidhar Vaish, resident of Ajmer, Rajasthan. Counsel recorded in the judgment: Mr. Siddharth Bapna for the appellant and Mr. Shiv Pratap Singh Rathore for the respondent.

ORDER

1. The appeal challenged the judgment dated 31 August 1991 of the Special Magistrate (Economic Offences), Rajasthan, Jaipur, by which the respondent was acquitted of the charge under section 276CC of the Income-tax Act, 1961.

2. The Income Tax Officer, after sanction from the Commissioner of Income Tax, had filed a criminal complaint alleging that the respondent did not furnish the return required under section 139(1) by 31 July 1978 and instead filed the return on 31 December 1980. Penalty proceedings were also initiated and a penalty of Rs. 2,200 was imposed under section 271(1) by order dated 10 November 1984.

3. The prosecution examined departmental witnesses. Charges under section 276CC were framed; the respondent denied the allegations and claimed trial. His statement was recorded under section 313 CrPC and no defence evidence was produced. The trial court acquitted him on 31 August 1991.

4. The Department argued that the return for assessment year 1978-79 had been filed after a delay of more than 28 months and that this delay was proved by the departmental evidence; therefore the trial court should not have acquitted the respondent.

5. The respondent argued that although there was delay, it was not wilful and there was no intention or mens rea attracting criminal liability. The acquittal was said to be based on a proper appreciation of the evidence and benefit of doubt.

6. The High Court heard the parties and examined the record.

7. The prosecution case was that non-compliance with section 139(1) and filing the return after 28 months constituted an offence under section 276CC. The Court examined the statutory requirement that the failure to furnish the return in due time be wilful, together with the statutory provisos protecting specified classes of taxpayers.

8. The Court noted that the proviso to section 276CC protects genuine cases in the situations specified by Parliament, including cases where the prescribed tax-payable threshold after prepaid taxes is not exceeded. The defence was that the tax payable as per the return was only Rs. 1,279 and that the delayed filing was bona fide rather than an attempt to evade tax.

9. The judgment discussed section 278E and the concept of culpable mental state, including intention, motive and knowledge, while considering the burden applicable in tax prosecutions.

10. The Court considered precedent on the requirement of a positive and wilful act for prosecution relating to tax evasion. It referred to the principle that a criminal tax charge requiring wilfulness cannot be sustained merely from delay without the requisite culpable state being established on the evidence.

11. The judgment referred to authorities relied upon for the proposition that where the circumstances surrounding a delayed filing do not establish the requisite criminal intent, penal consequences under the prosecution provisions do not automatically follow merely from the fact of delay.

12. Referring to the Supreme Court's decision in Prem Das v. Income Tax Officer, the Court reiterated that a wilful attempt is a positive act that must be proved where the offence requires such culpability. The judgment also considered the relevance of mens rea in prosecution under the Income-tax Act.

13. On the evidence in the present case, the Court held that the respondent had explained the delay and had deposited the tax and penalty. The Department had failed to prove beyond reasonable doubt that the respondent possessed the necessary mens rea to evade tax.

14. The Court also recorded the trial court's conclusion that no notice had been given to the respondent prior to filing the complaint and that the charge under section 276CC had not been proved.

15. In an appeal against acquittal, where two views of the evidence are reasonably possible, the view supporting innocence is ordinarily preferred.

16. The High Court found no perversity in the trial court's findings acquitting the respondent.

17. The criminal appeal was dismissed and the acquittal was upheld.

18. The lower-court record was directed to be returned.

Verification source: Indian Kanoon full-text page for The Income Tax Officer v. Rajendra Prasad Vaish, Rajasthan High Court, decided 02 April 2024. This reproduction is included solely to ensure the Finin2min repository has a local readable judgment record while official-court retrieval remains pending.