Alex.C.Joseph vs The Income Tax Officer

ID: F2J-C-2674 **Court:** Kerala High Court
Case: ITA.No. 92 of 2008() **Date:** 2009-11-11

Kerala High Court Alex.C.Joseph vs The Income Tax Officer on 11 November, 2009 Bench: C.N.Ramachandran Nair, V.K.Mohanan

IN THE HIGH COURT OF KERALA AT ERNAKULAM

ITA.No. 92 of 2008()

1. ALEX.C.JOSEPH, CHEKKATTU HOUSE, ... Petitioner

Vs

1. THE INCOME TAX OFFICER, WARD-1, ... Respondent

For Petitioner :SRI.M.A.SHAFIK

For Respondent : No Appearance

The Hon'ble MR. Justice C.N.RAMACHANDRAN NAIR The Hon'ble MR. Justice V.K.MOHANAN

Dated :11/11/2009

O R D E R C .N. RAMACHANDRAN NAIR & V.K. MOHANAN, JJ. -- I. T. A. No. 92 OF 2008 -- Dated this the 11th day of November, 2009

JUDGMENT

Ramachandran Nair, J.

Heard counsel for the appellant. The appeal is filed against the order of the Tribunal disposing of assessment appeal by the assessee for the year 1992-93. The assessee who was the Managing Partner of two firms during the previous year did not file any return. A search was carried out in the premises under Section 132 of the I.T. Act when it was found that business transactions of the two firms of which the assessee was Managing Partner, were transacted through the bank account of the assessee. Both the firms had converted their business to purchase and sale of imported cars. After collecting information from the books of accounts, the assessing officer issued notice to one person by name K.A. Mathew to whom payment of Rs. 25,000/- was recorded in the books of accounts of the assessee's firm towards consideration for using his passport for import of Mercedes car in June, 1991. However, the said K.A. Mathew appeared before the assessing officer 2 and gave a statement denying any commission having been received by him. Since books of accounts were found to be unacceptable, the assessing officer estimated that the net profit from business is Rs. 75,000/-. On appeal, the Tribunal reduced this income estimated to Rs. 50,000/-. Even though assessee's counsel contended that income escaping assessment completed under Section 147 is time barred, we do not find any such contention raised before the Tribunal while deciding the issue. An appeal is maintainable before this Court only on substantial question of law arising from the order of the Tribunal. Since the issue does not arise from the orders of the Tribunal, we decline to consider the same. So far as refixation of income is concerned, we do not find any question of law arising from the Tribunal's order. Consequently appeal is dismissed leaving freedom to the appellant to move the Tribunal in accordance with law if he has a case that the assessment is time barred.

(C.N.RAMACHANDRAN NAIR) Judge. (V.K. MOHANAN) Judge. kk 3