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Case Law JTRF

Judicial Approach to the Concept of Income with Special Reference to the Raja Bahadur Kamakshya Narain Singh of Ramagarh versus Commissioner of Income Tax

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Abstract

Sections 2(14), 4(1) and 14 of Income Tax Act, 1961 defined the expression "Income" but the said provision failed to provide a restricted and precise interpretation of "Income" which was very well raised in "Kamakshya Narain Singh of Ramagarh versus Commissioner of Income Tax [(1943) II ITR 513 (PC)]" which tried to approach for exploring judicial concept of the expression "Income". "Kamakshya Narain Singh of Ramagarh versus Commissioner of Income Tax [(1943) II ITR 513 (PC)]" held that a reference to the analogy of fruit or increase or sowing or reaping or periodical harvests cannot be used to limit the true character of income in general. Through this case study, we tried to explore the true interpretation of the expression "Income" as used in the Act.

Keywords: Income, income tax, Income Tax Act, royalties, rent, mining leases, capital, capital payment

INTRODUCTION

The study of judicial decisions in India regarding the concept of income, which is the tax base for levying income tax reveals three basic principles.

Concept of Income

"Income is a word difficult and perhaps impossible in any precise general formula [1]. It is a word of the broadest connotation. Income is 'lot necessarily the recurrent return from a definite source though it is generally of that character'. Income again may consist of a series of separate projects, as it generally does in the case of professional earnings. The multiplicity of forms which 'income' may assume is beyond remuneration."

This concept was very well established in the case of
"Kamakshya Narain Singh of Ramagarh versus Commissioner of Income Tax [(1943) II ITR 513 (PC)]"

Illegal Income is Taxable

Income Tax law does not make any distinction between income accrued or arisen from a legal source and income tainted with illegality [2]. The taxpayer might be prosecuted for the offence and yet he is taxed on the profits arising out of its commission. *[Minister of Finance versus Smith (1927), A C193-PC].*

Diversion of Income and Application of Income

There is a distinction between diversion and application of income. In case of diversion, tax

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liability is reduced but not in the case of application of income. *[CIT versus Sitaldas Tirathadas (1961) 41 ITR367]*. Definition of income under sections 2(14), 4(1) And 14 Of 1961 Act.

RESEARCH METHODOLOGY

The researcher has chosen the empirical legal research methodology. It draws inferences from observations of phenomena extrinsic to the researcher. Putting it simply, the researcher has collected and then analyzed material (data) that they have read, heard or watched and subsequently made claims about how what the researcher learned may apply in similar situations the researcher have not observed (by inference). One such form of empirical method is the case study, a methodological term which has been used by the researcher to describe studies that employ a combination of data sources to derive in-depth insight into a particular situation, by others to denote a particular ideological approach to research recognizing that the study is situated within its real-world context. It is consequently a flexible definition encompassing approaches to the data and the stance of the researcher, but its malleability has led some researchers incorrectly to stretch the term to encompass any study that focuses on one or a restricted number of situations. Case study method usually involves an array of research methods to generate a spectrum of numerical and non-numerical data that when triangulated provide a means through which to draw robust, reliable, valid inferences about law in the real-world. It is relatively underused in empirical legal research. A case study is the preferred method by the researcher, compared to the others, in situations when (1) the main research questions are "how" or "why" questions; (2) a researcher has little or no control over behavioral events; and (3) the focus of study is a contemporary (as opposed to entirely historical) phenomenon.'

CASE STUDY

Raja Bahadur Kamkshya Narain Singh of Ramgarh Versus Cit (1943) 11 Ltr 513 Privy Council

Issue: Whether royalties on mines received by the lessor is income within the definition in the I.T. Act or capital receipt?

The assessee was getting royalties from the mines leased for a term of 999 years. The contention put forward on behalf of the assessee was coal in his land is capital and money received from time to time for each ton vests in the assessee. The issue depends on the true interpretation of the word "income" as used in the Act. Income is not only the most general word in section 6 of the Act but is obviously a more appropriate term to be applied to mining royalties than "profits or gains." In order to ascertain whether the word "income" applies to mining royalties, it is necessary to advert to the nature of mining lease and the meaning of rent or royalties as used in a mining lease. A question has been raised whether the mining leases are leases within section 105 to 108 of the Transfer of Property Act, 1881, or within the ordinary legal acceptance of that word in Indian Law. In their Lordships' opinion, the leases are properly described as leases according to ordinary parlance and are 94 within the terms of the sections referred to of the Act of 1881. At the same time, their Lordship do not regard this question as relevant to determine the present case [3].

The payments which under the leases are exigible by the lessor may be classed under three categories: (i) the salami or premium: (ii) the minimum royalty, (iii) the royalties per ton. The salami has been rightly in their Lordships' opinion, treated as a capital receipt. It is a single payment made for the acquisition of the right of the lessees to enjoy the benefits granted to them by the lease. That general right may properly be regarded as a capital asset; and the money paid to purchase it may properly be held to be a payment on capital account. But the royalties are on a different footing. The minimum royalty is only payable if in any year the royalties on coal raised and dispatched are less than the sum fixed as the minimum royalty, this amounts to a species of annual guarantee: it does not correspond to any coal in fact extracted and taken away: it is simply "income" flowing from the covenants in the lease, contingently on the lessees' failure to take the minimum quantity of coal. It would be payable if in any year the lessees took before the termination of the lease. The minimum royalty is therefore in their Lordships' judgment "income" and in no sense a payment on capital account.

There is therefore, in their Lordships' judgment, no real justification for treating the royalties as capital payments. They think that they are "income" within the meaning of the Act, whatever may be the exact definition of that word in the Act. Its applicability may, in particular cases, differ because the circumstances, though similar in some respects, may be different in others. Thus the profit realized on a sale of shares may be capital if the seller of the shares is an ordinary investor changing his securities, but in some instances at any rate it may be income if the seller of the shares is an investment or an insurance company. Income is not necessarily the recurrent return from a definite source, though it is generally of that character. Income again consist of a series of separate receipts, as it generally does in the case of professional earnings. The multiplicity of forms which "income" may assume is beyond enumeration. Generally however, the mere fact that the income flows from some capital assets, of which the simple illustration is the purchase of an annuity for a lump sum, does not prevent it from being income, though in some analogous cases the true view may be that the payments, though spread over a period, are not income, but installments payable at specified future dates of a purchase price. Such a case is illustrated by *Scobie versus Secretary of State (1903) A.C. 299*. But in their Lordships' judgment, the royalties here are clearly income and not capital. They are periodical payments for the continuous enjoyment of the various benefits under the leases. The actual acquisition of the property in a particular ton of coal at the moment when the leases have cut and taken away the coal is only final state.

If the receipts are income, it is not material for tax purposes that for which they are paid comes from a wasting property. If the payment ceases because the source ceases, so does the tax [4]. Once it is established that the royalties are income within the meaning of the Act it is not material that the mines are in course of being exhausted unless there is provided in the Act that there should be a deduction from the income on that particular ground. But there is under the Indian Act no provision for allowance for amortization in respect of the minerals being exhausted. Indeed, where, as here, the lease is for 999 years, an attempt to quantify the appropriate allowance would be scarcely practicable. However, section 12(2) already quoted in this judgment, expressly excludes allowances in respect of capital expenditure. Any ordinary expenditure incurred by the appellant in connection with the leases, such as the cost of collection of royalties, has been duly allowed. For these reasons which are, substantially those given by the learned Judges of the High Court, their Lordships agree with them in their conclusions. Accordingly, the appeal fails and should be dismissed.

CONCLUSION

Through this landmark judgment, the Supreme Court held that "income" is a word very vast and perhaps unmasterable to define in any explicit manner and also observed that the ordinary English word "income" has not acquired a particular restricted meaning. Not only this but the credit for defining the word "source" in most accurate way also goes to this judgment which defined "source" as origin and further stated source of income as verity channels of income. The *Privy Council in Rhodesia Metals Ltd. vs. Commissioner of Taxes (11 ITR, Suppl. P. 45),* the Privy Council focused towards practical approach in interpreting the expression `source' on the basis of judgment in *"Kamakshya Narain Singh of Ramagarh versus Commissioner of Income Tax [(1943) II ITR 513 (PC)]"*. The income tax was quoted "Source means not a legal concept but which a practical man would regard as a real source of income"; "the ascertaining of the actual source is a practical hard matter of fact".

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