

REVISIONAL CIVIL.

*Before Mr. Justice Broadway, Acting Chief Justice and
Mr. Justice Bhide.*

1927

June 22.

RATTAN CHAND-DUNI CHAND—Petitioners

versus

THE INCOME-TAX COMMISSIONER—

Respondent.

Civil Miscellaneous N o. 89 of 1927.

Indian Income Tax Act, XI of 1922, sections 23 (4), 66 (2)—Firm—with premises at Amritsar, but carrying on business in Kashmir—making a blank return of income—whether a “no return case” under section 23 (4)—Point of law—reference to High Court.

The assesseees, a firm, having certain premises in Amritsar and having also a business in Kashmir, were served with a notice calling upon them to furnish a return of their income. They signed the prescribed form without making any entries in the various columns and wrote the word “blank” against the item “total”. This “return” was accompanied by a covering letter explaining that they carried on no business in Amritsar and received no income at that place. After notice under clause (4) of section 22 had been served on them and on their refusing to produce any account book the Income Tax Officer treated the case as a “no return case” and made the assessment under section 23 (4). The Income Tax Commissioner being moved under section 66 (2) of the Act, held that there was no question of law involved in the case which could be referred to the High Court.

Held, that the main question involved in the case, *viz.* whether a return, such as was made, accompanied by the covering letter, is “no return” for the purposes of section 23 (4) of the Act, is one of law and should be referred to the High Court.

Application under section 66 (3) of the Income-Tax Act, praying that the Commissioner be directed to refer the case to the High Court.

MEHR CHAND, MAHAJAN, for Petitioners.

JAGAN NATH, AGGARWAL, for Respondent.

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ORDER.

BROADWAY A. C. J.—The firm of Messrs. Rattan Chand-Duni Chand have certain premises in the Guru Bazar in Amritsar. They have also business in Kashmir. They were served with a notice under section 22 (2) of the Income-Tax Act, calling upon them to furnish a return of their income. They signed a prescribed form and, refraining from making any entries in the various columns, wrote the word 'blank' against the item 'total.' This "return" was sent by them to the Income-Tax Officer with a covering letter, in which it was explained that they carried on no business in Amritsar and received no income at that place, and that the writing of the word 'blank' on the prescribed form meant that the firm in Amritsar had no income of any kind whatsoever. The Income-Tax Officer then issued a notice to this firm under sub-clause (4) of section 22, calling upon them to produce all their accounts in connection with their business. This notice was issued on the 15th of August, 1925, but was not served. A similar notice was issued on the 9th of September, 1925, but was served on a wrong person with the result that another one had to be issued on the 12th of September, 1925, of which service was duly effected. A member of the firm appeared before the Income-Tax Officer, and there made certain statements to the effect that they kept no accounts of any dealings they might have had in Amritsar and that the main accounts in any case were in Kashmir. After further time had been given by the Income-Tax Officer (and it may be that another notice issued calling for account books regarding

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which there is some question), the Income-Tax Officer treated the case as a "no return case" and made the assessment under section 23 (4). This assessment was appealed against and ultimately taken up to the Income-Tax Commissioner who was asked either to review the proceedings or under the provisions of section 66 (2) of the Income-Tax Act refer certain questions of law to this Court. The Income-Tax Commissioner held that there was no question of law involved which could be referred to this Court, with the result that Messrs. Rattan Chand-Duni Chand have moved this Court for a *mandamus* under the 3rd clause of section 66.

It appears to me that in the present case one question of law does arise, a question which admittedly forms the basis of all the other points taken by the petitioners in their petition. This question is whether a "return" such as was made in this case, namely, the signing of a prescribed form without any date with all the various columns left blank and the word 'blank' written against the item 'total,' accompanied by a covering letter such as has been referred to above, is "no return" for the purposes of assessment under section 23 (4). I think that this question should be referred to this Court and I would direct accordingly. No order as to costs.

BHIDE J.

BHIDE J.—I concur.

A. N. C.