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HIGH COURT OF CHHATTISGARH, BILASPUR

Tax Case No. 59 of 2010

Assistant Commissioner of Income Tax Circle-I, Raipur

---- Appellant

Versus

South Eastern Coalfields Limited, Through the Director (Finance) Seepat Road, Bilaspur (CG) 495 006

---- Respondent

For Appellant : Ms. Naushina Afrin Ali, Advocate.

HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.

Order On Board

Per NAVIN SINHA, C.J.

18/6/2015

1. The Income Tax Appellate Tribunal, Bilaspur Bench, Camp at Raipur, by a common order dated 18.9.2009 on a common reasoning set aside the order of the CIT (A) disallowing interest to the tune of Rs.10992.83 and allowed ITA No. 157 and 158/Jab/2004 relating to the assessment years 1994-1995 and 1995-1996.

2. Aggrieved, the Department preferred Tax Case No. 56 of 2010 and Tax Case No. 59 of 2010 separately as the common order related to two different assessment years. The grounds urged in challenge to the common order of the Tribunal are the same.

3. It does not appear from the records of Tax Case No. 59 of 2010 that at any time prayer was made for analogous hearing of the case along with Tax Case No. 56 of 2010. The latter was dismissed on 11.10.2010 relying on 1992 Supp. (2) SCC 432 (Oil Natural Gas Commission and another Vs. Collector of Central Excise). The order is acknowledged not to have been challenged and has attained finality inter-parties.

4. Learned Counsel for the Appellant submitted that the guidelines in Oil Natural Gas Commission (supra) has subsequently been recalled in (2011) 3 SCC 404 (Electronics Corporation of India Limited Vs. Union of India and others) observing that it had outlived its utility. The present appeal may therefore be heard on merits and decided in accordance with law.

5. We have considered the submissions on behalf of the Appellant.

6. The two appeals arise from a common order by the Tribunal with regard to the same parties. The questions of law sought to be urged in the two appeals are common. Only the assessment years are different. No explanation has been furnished why the Appellant took no further steps in Tax Case No. 56 of 2010 after the order in Electronics Corporation of India Limited (supra). It shall be a highly incongruous situation where the common order of the Tribunal is accepted by the Appellant with regard to the same assessee for the assessment year 1994-1995 and yet it seeks to assail the very same order against the same assessee for the assessment year 1995-1996.

7. In the peculiar facts of the present case, we are not satisfied to entertain the present appeal, without going into the merits.

8. The appeal is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

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