IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

ITA.No. 36 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN ITA 226/COCH/2012 of INCOME TAX APPELLATE TRIBUNAL,COCHIN BENCH DATED 12-12-2014

APPELLANT(S)/RESPONDENT IN I.T.A/ASSESSOR:

M/S.TIME ADS & PUBLICITY,
PARAMMEL HOUSE, SHENOY ROAD, KALOOR,
ERNAKULAM NORTH, KOCHI-682 017.

BY ADVS.SMT.V.P.SEEMANDINI (SR.)
SRI.M.R.ANISON
SMT.K.P.GEETHA MANI
SMT.V.BHARGAVI (PANANGAD)
SMT.P.A.RINUSA

RESPONDENT(S)/APPELLANT IN I.T.A./REVENUE:

THE COMMISSIONER OF INCOME TAX (CENTRAL),
RAVENUE BUILDING, I.S.PRESS ROAD, COCHIN-682 018.

R BY SRI.JOSE JOSEPH, SC, FOR INCOME TAX

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON 05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DG

ITA.No. 36 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE-A:	COPY OF THE ASSESSMENT ORDER DATED 23.12.2010 ISSUED BY THE COMMISSIONER OF INCOME TAX.
ANNEXURE-B:	COPY OF THE APPEAL FILED BY THE APPELLANT BEFORE THE COMMISSIONER OF INCOME TAX (APPEALS) DATED 21.01.2011.
ANNEXURE-C:	COPY OF THE ORDER DATED 14.05.2012 ISSUED BY THE COMMISSIONER OF INCOME TAX (APPEALS) - II TO THE APPELLANT.
ANNEXURE-D:	COPY OF THE ORDER DATED 31.07.2013 IN I.T.A.226/Coch/2012 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL.
ANNEXURE-E:	COPY OF THE JUDGMENT DATED 03.07.2013 IN I.T.A.NO.310/2013 OF THIS HONOURABLE COURT.
ANNEXURE-F:	COPY OF THE ARGUMENT NOTE SUBMITTED BY THE COUNSEL FOR THE RESPONDENT.
ANNEXURE-G:	COPY OF THE AFFIDAVIT FILED BY THE COUNSEL FOR THE APPELLANT.
ANNEXURE-H:	COPY OF THE ORDER DATED 12.12.2014 IN ITA.NO.226/coch/2012 PASSED BY THE INCOME TAX APPELLATE TRIBUNAL, CONCHIN BENCH.

RESPONDENTS'S EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

I.T.A.No.36 of 2015

Dated this the 5th day of February, 2015

<u>J U D G M E N T</u>

<u>Thottathil B.Radhakrishnan, J</u>.

1. Heard the learned senior counsel for the appellant and the learned senior counsel for the Department.

2. Keeping aside the other questions raised by the appellant, one of the fundamental issues that gain acceptance is that many of the issues projected in the remand order made by this Court in the earlier round through I.T.A.No.310 of 2013 do not appear to have gained implicit and explicit consideration by the Tribunal. This plea cannot be turned down, having regard to the contents of the order impugned in this appeal. Under such circumstances, we are inclined to take a lenient view and say that the matter requires reconsideration by the Tribunal, after extending an opportunity of hearing to the appellant, which was, admittedly, not represented before the Tribunal on the date of hearing.

3. Hearing the learned senior counsel for the appellant on the grounds and reasons as to why there was absence before the Tribunal and taking into consideration the

amount involved, we are inclined to set aside the impugned order and remit the matter for reconsideration of the Tribunal, however on terms.

In the result, the impugned order will stand vacated and the Income Tax Appellate Tribunal, Cochin Bench will take up I.T.A.No.226/Coch/2012 (AY-2008-09) for hearing and disposal de novo, on condition that the appellant remits to the Revenue an amount of Rs.10,000/- (Rupees ten thousand only) as costs within a period of 10 days from today. The parties are directed to mark appearance before the Tribunal on 26.2.2015. Appeal ordered accordingly, without expressing anything on the rival contentions on merits of the subject matter of the proceedings before the Tribunal.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)

DG