

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P. CHALY

TUESDAY, THE 16TH DAY OF JUNE 2015/26TH JYAISHTA, 1937

ITA.No. 121 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN ITA 284/COCH/2014 of I.T.A. TRIBUNAL,
COCHIN BENCH DATED 06-02-2015

APPELLANT(S)/APPELLANT/RESPONDENT/REVENUE:

THE COMMISSIONER OF INCOME TAX,
THIRUVANANTHAPURAM.

BY ADVS. SRI. CHRISTOPHER ABRAHAM, INCOME TAX DEP
SRI. K.M.V. PANDALAI, INCOME TAX DEPARTMENT

RESPONDENT(S)/RESPONDENT/APPELLANT/ASSESSEE:

KERALA STATE ELECTRICITY BOARD,
PATTOM, TRIVANDRUM (PAN AABCK5896J)

THIS INCOME TAX APPEAL HAVING COME UP FOR ADMISSION ON
16-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN I.T.A.121/15

APPELLANTS' EXHIBITS:

ANNEXURE A: TRUE COPY OF THE ORDER U/S 143(3) OF THE JOINT COMMISSIONER OF INCOME TAX, RANGE -1, TRIVANDRUM DATED 31.12.2010.

ANNEXURE B: TRUE COPY OF THE ORDER OF THE COMMISSIONER OF INCOME TAX (APPEALS), TRIVANDRUM.

ANNEXURE C: TRUE COPY OF THE ORDER OF THE INCOME TAX APPELLATE TRIBUNAL IN ITA NO.284/COCH/2014 DATED 6.2.2015.

/TRUE COPY/

PS TO JUDGE

ANTONY DOMINIC & SHAJI P. CHALY, JJ.

I.T.A.No.121 of 2015

Dated this the 16th day of June, 2015

JUDGMENT

Antony Dominic, J.

- 1.This appeal filed by the Revenue is against the order passed by the Income Tax Appellate Tribunal, Cochin Bench in ITA.No.284/14 concerning the assessment year 2008-09.
- 2.Two issues were raised before the Tribunal. First issue was relating to the electricity duty payable under section 3(1) of the Electricity Duty Act, 1963 and surcharge payable to Government.
- 3.According to the Assessing Officer, as per the provisions of section 43B of the Income Tax Act, any amount payable by way of tax, cess or fee under any law is allowable as deduction only in that previous year in which such sum is actually paid. On that basis, the aforesaid amounts were disallowed. This was reversed by the commissioner (Appeals) and that order was confirmed by the Tribunal.

4. Though the Revenue is challenging the correctness of this view taken by the Tribunal, we notice that the issue stands already decided in favour of the assessee by virtue of the judgment of this Court in Kerala State Electricity Board v. Deputy Commissioner of Income Tax [(2010) 329 ITR 91].

5. The second issue is with regard to the application of section 115JB of the Act so as to tax book profit. The Commissioner (Appeals) found this issue in favour of the assessee and this was confirmed by the Tribunal. This issue is also covered in the aforesaid judgment of this Court rendered in the case of the respondent assessee itself.

6. Thus, both the issue raised by the appellant stands answered against it. Therefore, we do not find any ground to interfere with the order of the First appellate authority as confirmed by the Tribunal.

Appeal fails and is therefore dismissed.

Sd/-
ANTONY DOMINIC, Judge.

Sd/-
SHAJI P. CHALY, Judge.

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