HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

ITTA Nos. 328, 332 OF 2003; 23 AND 51 OF 2004

COMMON JUDGMENT: (per the Hon'ble Sri Justice Dilip B. Bhosale)

These appeals are filed by the Revenue against the assesee, who is common in all four appeals. The appeals pertain to different assessment years viz., 1995-96, 1996-97, 1997-98 and 1998-99, and they are arising from common order passed by the Appellate Tribunal, Hyderabad. The substantial questions of law framed in these appeals are also common, which read thus:

> "(A) On the facts and in the circumstances of the case, whether the Appellate Tribunal is justified in holding that the additional charges and interest payable to the A.P.State Electricity Board for the delayed payment of consumption charges does not fall within the purview of fee and hence it is deductable as expenditure notwithstanding non-remittance of the same before the date stipulated U/s.43B of the I.T.Act?
>
> (B) Whether the Appellate Tribunal is justified in holding that the assesee is entitled to grant of deduction of the expenditure in spite of the same not having been recorded in the books of accounts much less claimed as a deduction in the return under the I.T.Act?"

Learned counsel appearing for the Revenue submits that both the questions are covered by the judgments in ***Commissioner of Income-tax v. Andhra Ferro Alloys P.Ltd***[1] and ***Kedarnath Jute Mfg. Co. Ltd. V. Commissioner of Income-tax (Central), Calcutta***[2]. He fairly submits that the first question may be answered against the Revenue and in favour of assessee in view of the judgment of this Court in ***Andhra Ferro Alloys P. Ltd.,*** (supra). We have perused the said judgment and we find that a similar question was framed by this Court and it was answered in favour of assessee and against the Revenue. Even the second question, he submits that it stands answered in favour of assessee and against the Revenue, in view of the judgment of the Supreme Court in ***Kedarnath Jute Mfg. Co. Ltd.*** (supra). Learned counsel appearing for the respondent also submits that both the questions stand answered by the aforementioned judgments in favour of the assessee and against the Revenue.

We accordingly dispose of these appeals, answering both the questions in favour of the assessee and against the Revenue. There shall be no order as to costs.

DILIP B. BHOSALE, J

A. RAMALINGESWARA RAO, J

11-02-2015
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[1] (2012) 349 ITR 0255

[2] (1971) 082 ITR 0363