HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A. No. 751 of 2014

Date: 22.01.2015

Between:

The Commissioner of Income Tax-IV,
Hyderabad.

… Appellant

And

M/s. Prajay Engineers Syndicate Limited,
Hyderabad.

… Respondent

This Court made the following:

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

I.T.T.A. No. 751 of 2014

JUDGMENT: (Per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This appeal is sought to be preferred by the Revenue against the judgment and order of the learned Tribunal dated 23.07.2012 in relation to the assessment year 2002-03 on the following suggested questions of law.

> "i. Whether in the facts and circumstances of the case and in law, Hon'ble ITAT is justified in holding that discount for rate difference of 15% from the CPWD rates be allowed to the assessee ignoring the fact that the assessee has never raised this issue before lower authorities?
>
> ii. Whether in the facts and circumstances of the case and in law, Hon'ble ITAT is justified in allowing deduction on account of self-supervision at 10% to the assessee without appreciating that the assessee has not adduced any evidence to support its claim for self-supervision?"

The issues raised in the aforesaid questions of law have been dealt with by the learned Tribunal in paragraphs 13 and 15 of the impugned judgment. It appears that the learned Tribunal has decided the issues against the Revenue following the unchallenged decision of the Visakhapatnam Bench on the same issues.

It is not argued by Mr. Prasad, learned counsel appearing for the Revenue, that the said decision is not applicable to this case. Under these circumstances, we think that the judgment impugned herein cannot be questioned, as the principle of issue estoppel will apply though res judicata is not applicable.

The appeal is accordingly dismissed. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

Date: 22.01.2015
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