IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: 02.02.2015

I.T.A.No.54 of 1999

Commissioner of Income Tax (Central), Ludhiana ...Appellant

Versus

M/s Hero Cycles Ltd., Ludhiana ...Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Ms. Savita Saxena, Advocate, for the appellant.

Mr. Aalok Mittal, Advocate, for the respondent.

HEMANT GUPTA, J. (ORAL)

The Revenue is in appeal under Section 260 A of the Income Tax Act, 1961 (for short 'the Act') aggrieved against the order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short 'the Tribunal') on 12.05.1998 relating to the assessment year 1988-89. The Revenue - appellant has raised the following substantial questions of law:

(1) Whether on the facts and in the circumstances of the case, the ITAT was right in holding that Disallowance of Medical expenses of a Director of the Assessee Company was not covered U/s 40A(5) of the Income Tax Act, without answering the question as to whether reimbursement of medical expenses is part of salary.

(2) Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting Disallowance of Camp Office expenses of Rs.73694/- without there being any evidence on record that Directors' Wives accompanying their husbands on business tours had any participative role?

In respect of first substantial question of law, learned counsel for the respondent-assessee relies upon a judgment of this Court in Porritts & Spencer (Asia) Ltd. Vs. Commissioner of Income Tax (2008) 175 Taxman 533, wherein it has been held that the medical reimbursement expenses are part of the salary covered under Section 40A(5) of the Income Tax Act, 1961.

In view of the said decision, the first substantial question of law does not arise for consideration and is answered against the Revenue.

Learned counsel for the appellant relies upon judgments of Kerala High Court as well as Bombay High Court, reported as Ram Bahadur Thakur Ltd. Vs. Commissioner of Income-Tax (2003) 261 ITR 390 and Commissioner of Income-Tax Vs. Bhor Industries P. Ltd. (2006) 284 ITR 319 respectively to contend that the travelling expenses of the Directors' wives would be admissible if it is for business purposes. We find that even the second substantial question of law again does not arise for consideration of this Court. The Tribunal has returned a finding of fact that the accompanying wife of the Director was part of their business tour.

Since the Tribunal has recorded a finding of fact that the wives of the Directors had accompanied their husbands on business tour, therefore, such finding of fact does give rise to any substantial question of law.

Consequently, while answering both the substantial questions of law in favour of the respondent-assessee and against the Revenue-appellant, the present appeal is dismissed.

(HEMANT GUPTA)
JUDGE

02.02.2015
Anjal/Vimal

(HARI PAL VERMA)
JUDGE