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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 12.01.2015

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ITA 62/2000

C.I.T.

..... Appellant

Through: Mr. Rohit Madan, Adv.

versus

M/s M.G.F. (India) Ltd.

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. In the present case the following question of law was framed on 02.08.2000.

“(i) Whether the ITAT was right in holding that the insurance premium collected by the assessee is not a trading receipt?”

2. The assessee was engaged in the business of financing of vehicles. He collected insurance premium from the hire of vehicles and got them insured by premium and such surplus was credited to the separate account for the Assessment 1990-91. The amount of ₹1,53,281/- was sought to be brought to tax by way of an addition, in the assessment year. The Assessing

Officer invoked Section 41(1) and relied upon the judgment of Supreme Court in *CIT vs. Sugali Sugar Works Pvt. Ltd.* 236 ITR 518. The assessee contends that the Revenue ought not to have mechanically added the amount merely by relying on Section 41(1) and is necessarily obliged to investigate as to whether the obligation has ceased in reality.

3. At the outset, it is noticed that since the total addition itself was ₹1,53,281/-, the tax fact is, therefore, just about ₹35,000/-. In view of the prevailing instruction of CBDT dated 9.02.2011(No. 3/2011) which states that the revenue's appeals are maintainable only if the tax effect exceeds ₹10 lakhs, the present appeal is not maintainable. The said circular has been held to be applicable even in pending appeals.

4. For these reasons, the appeal is not maintainable and is consequently dismissed.

S. RAVINDRA BHAT
(JUDGE)

R.K.GAUBA
(JUDGE)

JANUARY 12, 2015

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