

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

INCOME TAX APPEAL NO.33 OF 2016

(The Pr. Commissioner of Income Tax-3 vs. M/s. Ballarpur Industries Limited)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri S.N. Bhattad, Advocate with Shri A.J. Bhoot,
Advocate for appellant.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : SEPTEMBER 16, 2016

By this income tax appeal, the appellant – Department challenges the orders of the Commissioner of Income Tax and the Income Tax Appellate Tribunal, Nagpur.

On hearing the learned Counsel for the Department and on a perusal of the impugned orders, it appears that both the Authorities have recorded a clear finding of fact that there was no exempt income earned by the assessee. While holding so, the Authorities relied on the judgment of the Delhi High Court in Income Tax Appeal No. 749/2014, which holds that the expression “does not form part of the total income” in Section 14A of the Income Tax Act, 1961 envisages that there should be an actual receipt of the income, which is not includible in the total income, during the relevant previous year for the purpose of disallowing any expenditure incurred in relation to the said income. The Income Tax Appellate Tribunal held that the provisions

of Section 14A of the Income Tax Act, 1961 would not apply to the facts of this case as no exempt income was received or receivable during the relevant previous year. It is not the case of the Assessing Officer that any actual income was received by the assessee and the same was includible in the total income. The Authorities have rightly held that since the order of the Assessing Officer was based on the order of the Income Tax Appellate Tribunal that was reversed by the Delhi High Court, the order of the Assessing Officer should fall as the order on the basis of which it was passed, was reversed. In the facts of the case, the Authorities held that since the investments made by the assessee in the sister concerns were not the actual income received by the assessee, they could not have been included in the total income.

The findings of facts recorded by both the Authorities do not give rise to any substantial question of law.

Since no substantial question of law arises in this income tax appeal, the income tax appeal is dismissed with no order as to costs.

JUDGE

JUDGE

khj

CERTIFICATE

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Private Secretary

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