IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
****

I.T.R. No.600 of 1995
Date of Decision:21.03.2016

The Commissioner of Income-tax, Patiala .....Petitioner
Vs.
M/s Punjab Tractors Ltd., Mohali .....Respondent

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present:- Mr. Z.S. Kalar, Advocate for the petitioner.

Mr. Divya Suri, Advocate for the respondent.

****

AJAY KUMAR MITTAL, J.(Oral)

The present reference at the instance of the revenue has been filed for the Assessment Year 1984-85. The reference has been sent to this Court by the Tribunal vide order dated 29.6.1995, to seek opinion of this Court on the following questions of law:-

"(i) Whether, on the facts and in the circumstances of the case, the ITAT was right in law in giving directions to the Assessing Officer to exclude the amount of repairs of cars out of the estimated disallowance of Rs.2,00,000/- made by the Assessing Officer on account of running and maintenance of cars which includes expenses on repairs also?

(ii) Whether, on the facts and in the circumstances of the case, the ITAT was right in law in deleting the 50% of the addition made by the Assessing Officer on account of business luncheon expenses without any basis?

(iii) Whether, on the facts and in the circumstances of the case, the ITAT was right in law in allowing expenditure of Rs.5,20,000/- incurred on the issue of debentures as revenue expenditure of the assessee?

(iv) Whether, on the facts and in the circumstances of the case, the ITAT was right in law to delete the addition of Rs.75,000/- made on account of rent paid to PSIDC for the guest house which fact also confirmed by the first appellate authority, holding that the payment of rent is covered u/s 30 and is not hit by the provisions of section 37(4) read with section 37(5)?

(v) Whether, on the facts and in the circumstances of the case, the ITAT was right in law in upholding the order of the CIT(A) in deleting disallowance made u/s 40A(5)?

(vi) Whether, on the facts and in the circumstances of the case, the ITAT erred in directing the Assessing Officer to exclude liabilities on pro-rata basis in respect of Tractor Division and Foundry Unit for computing capital employed in the New Unit?"

2. Learned counsel for the revenue very fairly submitted that the perusal of the case shows that the Assessing Officer made an assessment on total income of ₹ 20,52,520/- u/s 143(3) vide order dated 18.2.1988 and the tax effect involved in the present reference is less than the monetary limit prescribed in the circular No.21/2015 dated 10.12.2015 issued by the CBDT, New Delhi.

3. On the basis of the judgment of the Bombay High Court rendered in **ITR No.213 of 1997,** titled as **The Commissioner of Income Tax, Bombay City-I Vs. M/s Sunny Sounds P. Ltd., Mumbai**, decided on **8th January, 2016,** wherein, it has been held that the Circular No.21/2015, dated 10.12.2015 issued by the C.B.D.T., New Delhi is also applicable to the pending reference in the High Courts, learned counsel for the revenue made a prayer that in view of the aforesaid circular dated 10th December, 2015, as the tax effect involved in the present case is less than the monetary limit prescribed therein, the present reference may be dismissed as withdrawn and be returned unanswered. However, it was submitted that liberty be granted to the revenue to file an application for revival of the reference in case something survives therein.

4. Dismissed as withdrawn with liberty as prayed for.

5. Consequently, reference is returned unanswered. However, this shall not mean any expression of opinion on the merits of the controversy involved herein. At the same time, the question of law has been left open to be adjudicated in an appropriate case as and when occasion arises.

(AJAY KUMAR MITTAL)
JUDGE

March 21, 2016
renu

(RAJ RAHUL GARG)
JUDGE