

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

Referred Case No.12 of 2004

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

The following two questions have been referred to us by the Income-Tax Appellate Tribunal, Hyderabad Bench-A.

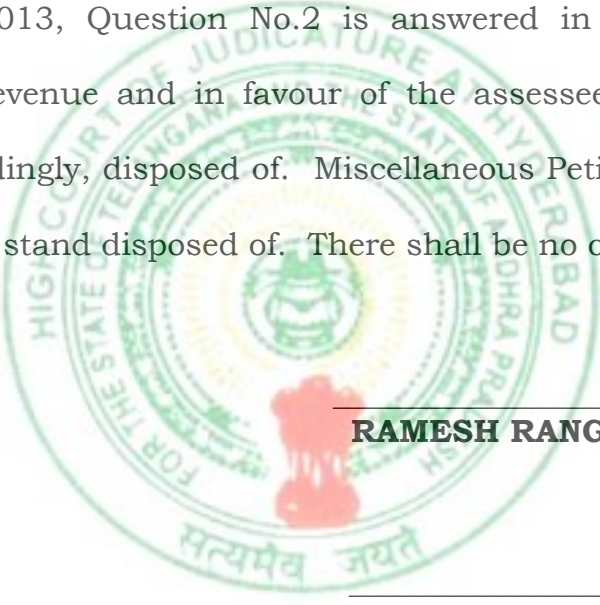
- (i) “Whether, on the facts and in the circumstances of the case, the Tribunal is right in allowing the amount of Rs.5,76,000/- representing interest payable to State Trading Corporation, which was only a contingent liability?”
- (ii) “Whether, on the facts and in the circumstances of the case, the Tribunal is right in law in holding that the liability to pay liquidated damages attributable to the delay in fulfilling the contract accrued during the accounting year on the ground that the assessee is adopting a regular method of making a provision for the damages attributable to the delay falling with the previous year and, therefore, such a provision is an allowable deduction in the computation of the total income of the assessee?”

On question No.1 the Tribunal, following its earlier decision in the assessee's own case for the assessment year 1984-85, had held against the Revenue. While six questions of law, for the assessment year 1984-85 relating to the very same assessee, were referred for the opinion of this Court in R.C.No.71 of 1993, Question No.1 herein was not. As the Tribunal has followed its order in the assessee's own case for the earlier assessment year 1984-85, and as this question has not been referred to this Court in R.C.No.71 of 1993, we decline to answer the reference with respect to Question No.1.

On Question No.2 the Tribunal followed its earlier order in the assessee's own case relating to the assessment year 1984-85. In its

order, passed in relation to the assessee's own case for the assessment year 1984-85, the Tribunal had relied on its earlier order with respect to the assessee's own case for the assessment year 1982-83. Question No.2 herein was, among the questions, referred to this Court in R.C.No.342 of 1991 which related to the assessee's case for the assessment year 1982-83. A Division Bench of this Court, by its order in R.C.No.342 of 1991 dated 08.08.2013, answered this question in the affirmative, decided it against the Revenue and in favour of the assessee.

Following the earlier order of this Court in R.C.No.342 of 1991 dated 08.08.2013, Question No.2 is answered in the affirmative, against the Revenue and in favour of the assessee. The Referred Case is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.



RAMESH RANGANATHAN, ACJ

GUDISEVA SHYAM PRASAD, J.

Date:07th December, 2017.

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