THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.Nos. 227, 228 AND 319 OF 2005

DATED 29TH NOVEMBER, 2017

I.T.T.A.No. 227 OF 2005

Between:

M/s. A.V.R. & Company,
10-1-30, Waltair Uplands,
Visakhapatnam … Appellant

AND

The Deputy Commissioner of Income Tax,
Central Circle, Visakhapatnam … Respondent

Counsel for the appellant : Sri A.Sarveswara Row

Counsel for the respondent : Sri K.Raji Reddy

THE COURT MADE THE FOLLOWING

COMMON JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

These three appeals, by the same assessee, pertain to disallowance of expenditure incurred towards illegal gratification paid to excise officials en route in the course of transportation of molasses for the assessment years 1996-97, 1997-98 and 1998-99 respectively.

2. The Assessing Officer (for short, 'A.O.') has not allowed the deductions. On the appeals filed by the assessee, the Commissioner of Income Tax (Appeals) reversed the orders of the A.O. and allowed deductions based on the orders for the assessment years 1991-92 to 1995-96. Feeling aggrieved by the said orders, the Revenue filed I.T.A.Nos. 46 & 47/V/01 and 114/V/02 respectively before the Income Tax Appellate Tribunal, Visakhapatnam (for short, 'the Tribunal'). The Tribunal allowed the appeals and set aside the orders of the first appellate authority. Aggrieved by these orders, the appellant-assessee filed the present appeals.

3. It is relevant to note at this stage that during the pendency of the appeals, explanation (1) to Section 37 (1) of the Income Tax Act, 1961 (for short, 'the Act') was inserted by the Finance Act, 1998 (for short, '1998 Act'), with retrospective effect from 01-04-1962. Sri S.Dwarakanath, learned counsel for the appellant, did not dispute the fact that by virtue of explanation (1) to Section 37 (1) of the Act, any

expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure. He has also not disputed the fact that the said explanation was inserted to Section 37 (1) of the Act by 1998 Act with effect from 01-04-1962.

4. As the assessment years, for which expenditure was incurred by the appellant and disallowed, are *post* 01-04-1962, the said provision applies to the returns filed by the appellant. Therefore, he is not entitled to any deduction.

5. For the aforementioned reasons, the questions of law framed in these appeals are answered against the appellant. Accordingly, the appeals are dismissed.

C.V.NAGARJUNA REDDY, J.

T.AMARNATH GOUD, J.

Date: 29-11-2017.
JSK