

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT. JUSTICE T. RAJANI

I.T.T.A.No.40 of 2017

JUDGMENT: (Per VRS,J)

The Revenue has come up with the above appeal under Section 260A of the Income Tax Act, 1961, raising only one question of law, which reads as follows:

“Whether in the facts and circumstances of the case, the order of the Tribunal is not perverse and based on mere surmises and presumptions?”

2. Heard Mr. J.V. Prasad, learned senior standing counsel for the Income Tax Department, appearing for the appellant. Mr. Badri V Reddy, learned counsel, takes notice for the respondent/assessee.

3. In the present appeal, the only grievance of the Revenue is that the disallowance of a part of the expenditure claimed by the assessee, was over turned by the Tribunal. The assessee claimed deduction of expenditure to the tune of Rs.4,12,309/-. The same comprised of general expenses, office maintenance, petrol expenses, printing & stationery, security charges, staff welfare, telephone expenses and travelling. This related to the assessment year 2003-2004. The Assessing Officer held as follows:

“The assessee debited all the above expenses to the profit and loss account. It is seen from the profit and loss account that assessee was in receipt of interest from M/s. Shaw Wallace & Co. and interest income from M/s. Sri Rama Krishna Financiers. For realization of interest, the assessee need not incur so much expenditure under these heads. When asked as to why the assessee incurred so much expenditure for the purpose of realization of interest, it was explained that all these expenses

were incurred for maintenance of office, and carrying on marketing activity for M/s. Shaw Wallace & Co., with whom the other family members have business connections. The explanation offered by the assessee is not convincing. The assessee did not earn any income by incurring so much expenditure except interest receipts. In such a situation, it cannot be said that all the expenditures were incurred wholly and exclusively for the purpose of business i.e., for realization of interest. Therefore, 20% of the above amount i.e., Rs.82,462/- is allowed on estimation basis treating the same as incurred for the purpose of business and balance of Rs.3,29,847/- is disallowed.”

4. The Tribunal followed its earlier decision in I.T.A.No.710/HYD/06 in the case of one Balwinder Singh Bagga. The said decision actually followed yet another decision in the assessee's own case in I.T.A.No.288/HYD/02. Though the Department filed an appeal before this Court as against the order in I.T.A.No.288/HYD/02, the same was withdrawn, on the ground that the monetary effect of the appeal was below the ceiling limit.

5. A careful perusal of the order in I.T.A.No.710/HYD/2006 and I.T.A.No.288/HYD/02 would show that the decisions were arrived at, on the basis of the facts. We do not find any perversity in the approach adopted by the Tribunal either in the order impugned in this appeal or in its earlier orders. Therefore, no substantial question of law arises for our consideration. Hence, the appeal is dismissed.

Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

19th September, 2017
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