

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE M.S.K. JAISWAL

I.T.T.A. No.270 OF 2005

DATED:27-12-2017

Between:

Commissioner of Income Tax
Rajahmundry ... Appellant

And

Chebrolu Lakshmi Sesha Kumari ... Respondent

COUNSEL FOR THE APPELLANT: Mr. B. Narasimha Sarma,
Senior Standing Counsel
for Income Tax
Department

COUNSEL FOR THE RESPONDENT: Mr. V. Satish, for
Mr. S. Suryaprakash Rao

THE COURT MADE THE FOLLOWING:

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

This appeal of the Revenue raises the following substantial questions of law:

- (A) “Whether the Appellate Tribunal is justified in holding that the assessee is entitled to deduction of Rs.28,58,421/- in spite of there being an accrued right for the assessee to receive the contractual rate as at the date of the end of the financial year, merely because other party to the contract disputed the rate admissible, for the supplies made, in part?
- (B) Whether the Appellate Tribunal is justified in allowing the deduction of a sum of Rs.28,58,421/- as a business loss, in spite of the dispute, pending in arbitration proceedings, not attaining finality in the accounting year relevant to the assessment year?”

2. The facts are not in dispute. The respondent was in the business of purchase and sale of new brass vessels. During the financial year 1999-2000, she entered into an agreement with Andhra Pradesh Backward Classes Cooperative Finance Corporation (for short, “the Corporation”) to supply various items and equipments to the beneficiaries under “Adarana Scheme”. As per the initial agreement the respondent - assessee has to supply variety of goods at the rate of Rs.165/- per Kg. for coastal districts and at Rs.189.75 ps. per Kg., for non-coastal districts. On the directions issued by the State Government, the Managing Director of the Corporation renegotiated with all the manufacturers registered under the Adarana Scheme, including the assessee resulting in refixation

of prices by the Corporation vide its letter dt.18.6.1999 whereby it has fixed a price of Rs.150/- per Kg., for supplies to coastal districts and Rs.172.50 ps., per Kg., for supplies to non-coastal districts for items other than iron boxes. The said revised prices continued during the financial year 2000-2001 also. The respondent while filing the return of income on 31.10.2000 has claimed the deduction of the differential price showing it as bad debt and claimed the same in the trading account of each item. However, the Assessing Officer has disallowed the said claim treating the same as taxable income. Feeling aggrieved by this assessment order, the respondent filed an appeal before the Commissioner of Income Tax (Appeals), Rajahmundry [for short, “the CIT(A)”]. The CIT(A) confirmed the assessment order. However, the Income Tax Appellate Tribunal, Visakhapatnam, has allowed the appeal filed by the respondent accepting the alternative plea that the price difference comes under the head “business loss” under Section 37 of the Income Tax Act, 1961 (for short, “the Act”). Feeling aggrieved by this order, the Revenue filed the present appeal.

3. We have heard Mr. B. Narasimha Sarma, learned Senior Standing Counsel for the Income Tax Department, and perused the record.

4. The Revenue has not disputed the correctness of the claim of the respondent that the differential amount claimed as bad debt arose on account of reduction of prices of the items supplied by her to the Government. It is also not in dispute that the loss occurring on account of such reduction constitutes an expenditure incurred during the course of business and such expenditure shall be allowed in computing the income chargeable under the head profits and gains of business or profession, as “business loss”. The Tribunal has therefore rightly accepted the alternative plea of the respondent who obviously out of ignorance claimed the said expenditure as bad debts instead of claiming the same as business loss which is an allowable expenditure under Section 37 of the Act. Therefore, we have no reason to differ with the view taken by the Tribunal. Accordingly the substantial questions of law are answered against the Revenue.

5. The appeal is therefore dismissed.

C.V. NAGARJUNA REDDY, J

M.S.K. JAISWAL, J

27-12-2017

bnr

