243 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.5223 of 2016 (O&M)
Date of decision : March 23, 2018

New India Assurance Company Ltd. .... Petitioner

Versus

Rajbala and others .... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R.C. Kapoor and Mr. Rahul Pathania, Advocates for the petitioner.

Mr. Yogesh Putney, Amicus Curiae.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 04.04.2016 (Annexure P-1) passed by the Commissioner, Employee's Compensation Act, 1923, Hisar, Circle at Hisar, directing the present petitioner-Insurance Company to release an amount of ₹33,401/-, which was deducted as TDS and pay the same to the claimants. Further, it was ordered that the difference of interest amount of ₹333/- shall also be released to the claimants.

I have heard learned counsel for the parties and also examined the matter with the valuable assistance rendered by Mr. Yogesh Putney, Amicus Curiae, appointed by this Court.

Under Section 4 of the Income Tax Act, 1961 (for short 'the Act'), the income tax is to be deducted at source.

Under Section 56(2)(viii) of the Act, the income by way of interest received on the compensation or enhanced compensation referred to

Clause b of Section 145A of the Act is to be treated as income from other sources.

Section 145 A(b) of the Act provides that the interest received by an assessee on the compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the year in which it is received.

As per Section 190 of the Act, the tax on the income is to be deducted for collection at source.

Section 194A of the Act provides as under:

Interest other than "Interest on securities"

"(1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income [by way of interest on securities], shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force:"

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Section 194 (ixa)

" to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;"

The combined reading of above Sections goes to show that at the first instance, the tax on the interest of compensation is to be deducted at source in the financial year, in which it is received.

Secondly, in a case pertaining to interest on the compensation awarded by the Motor Accident Claims Tribunal, no tax is payable on the interest up to ₹50,000/- and beyond ₹50,000/- the tax is to be deducted source on the aggregate of the amount of such income paid during the financial year.

The cases of the payment of compensation under the Workmen Compensation Act, 1923, are not covered under the said provisions. In such case, the appropriate remedy before the person concerned is to seek a refund from the Income Tax Department as permissible under the rules at time of filing of the return. However, since the Insurance Company had deducted the tax at source on the interest component, they cannot be directed to again pay the tax deducted at source to the claimants, since the same was lawfully deducted for the payment of compensation.

It being so, the impugned order dated 04.04.2016 (Annexure P-1) passed by the Commissioner, Employee's Compensation Act, 1923, Hisar, Circle at Hisar, is hereby set aside leaving the claimants to file income tax return and claim the refund, if permissible under the law.

As such, the present revision petition is allowed. Since, the main revision petition is allowed, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

March 23, 2018
sarita

Whether speaking / reasoned Yes

Whether Reportable: No