R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 653 OF 2017

Pr. Commissioner of Income Tax -1 .. Appellant

Versus

The Cricket Club of India .. Respondent

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- Mr. Suresh Kumar a/w Ms. Swapna Gokhale & Ms. Sumandevi Yadav for the Appellant
- Mr. R. Murlidharan i/by Mr. Atul Jasani for the Respondent

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CORAM : AKIL KURESHI &
S.J. KATHAWALLA, JJ.

DATE : JUNE 6, 2019.

P.C.:

1. The Revenue is in the appeal against the judgment of the Income Tax Appellate Tribunal, Mumbai ("the Tribunal" for short) dated 21.3.2016.

2. The following questions are presented for our consideration:-

(i) Whether on the facts and circumstances of the case and in law, the Tribunal was correct in deleting the disallowance of Rs. 71,83,168/- u/S. 14A, confirmed by the CIT(A) and holding that the Assessing Officer should examine the matter on this issue on the assessee's point of view?

(ii) Whether on the facts and circumstance of the case and in law, the Tribunal was correct in deleting the disallowance of Rs. 7,98,051/- made on account of water charges paid to BMC, and not upholding the order of CIT(A) confirming the said disallowance, on the ground that the said expenditure was allowable u/S. 23(1) being incurred for conducting specific event?

(iii) Whether on the facts and circumstances of the case and in law, the Tribunal was correct in upholding the order of CIT(A) in deleting the addition of Rs. 9,20,825/- made on account of club share income of assessee from caterer, on the ground that the same was exempt under principle of mutuality?

3. Question No. (i) pertains to disallowance under Section 14A of the Income Tax Act, 1961 ("the Act" for short). The Tribunal has merely remanded the issue before the Assessing Officer for fresh consideration. We do not find any error. This question is, therefore, not entertained.

4. Question No. (ii) pertains to disallowance of sum of Rs. 7.98 Lakhs claimed by way of expenditure by the assessee. The expenditure was towards water charges paid by the assessee to the Bombay Municipal Corporation in relation to rented premises. The Assessing Officer was of the view that this did not form the part of the Corporation charges and therefore was to be disallowed. Section 128A of the Maharashtra Municipal Corporation Act inter alia provides that property tax leviable on buildings and lands under the Act shall include water tax, sewerage tax etc. Thus, statutorily water tax was a component of the property tax to be paid to BMC. The Commissioner (Appeals) and the Tribunal, therefore, committed no error in disallowing the claim.

5. Last surviving question pertains to an addition of Rs. 9.20 Lakhs made by the Assessing Officer on the ground that the said sum was received by the assessee from the caterer whose services the assessee - club had availed to provide catering services to the club members. The Commissioner of Income Tax, however, while deleting such disallowance came to the conclusion that the club had collected money from the members for food and refreshment out of which a sum of Rs. 9.20 Lakhas was retained while releasing the payment in favour of the caterer. This was, thus, a sum collected from the members on the principle of mutuality. This amount was, therefore, not taxed.

6. It may be seen that while making payment to the caterer from the amount collected from the members, the club had retained a small portion to meet with its administrative expenses. We find no error in the view of the Commissioner as upheld by the Tribunal.

7. In the result, Income Tax Appeal is dismissed.

[S.J. KATHAWALLA, J.] **[AKIL KURESHI, J]**