

HIGH COURT OF CHHATTISGARH, BILASPUR**TAXC No. 35 of 2019**

- The Assistant Commissioner of Income Tax, Circle-3(1), Aaykar Bhawan, Civil Lines, Raipur C.G.

-----Appellant**VERSUS**

- M/s Chhattisgarh Mineral Development Corporation Limited, Khanij Bhawan, Sona Khan Bhawan, Ring Road No. 1 Purena, Raipur C.G.

-----Respondent

For Appellant : Mr. Amit Chaudhari & Ms. Naushina Ali,
Advocates

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge
Judgment on Board

Per P.R. Ramachandra Menon, CJ.

13/02/2020

1. The assessment finalized in the case of respondent herein as per Annexure A-3 Order dated 27-12-2016, though, was subjected to challenge, did not tilt the balance by virtue of the interference declined by the Commissioner of Income Tax (Appeals)-I, as per order dated 26-03-2018. The matter was taken up before the Tribunal and after hearing both the sides, Annexure A-1 Order was passed on 17-01-2019, allowing the appeal preferred by the Assessee, correctness of which is put to challenge in this appeal preferred at the instance of the Revenue, contending that substantial questions of law are involved.
2. Heard Mr. Amit Chaudhari, the learned standing counsel for the appellant at length.
3. During the course of hearing, it has come to the notice of this Court that almost similar issue which was pending consideration in Tax Case No. 10 of 2015 and connected cases, was finalized by this Court as per judgment dated 24-07-2019, which stands against the Revenue. It was an appeal preferred by the Assessee and the appeals were allowed as per the verdict mentioned above. The only difference, insofar as, the present case is concerned, may be

that, the subsidy herein may be a specific one and this is discernible from the discussion made by the Tribunal in paragraph- 7 of Annexure A-1 Order. We find it appropriate to have the same extracted herein –

“7. The Ld. DR conceded to the facts that all the facts and circumstances as existed from assessment year 2006-07 onwards are same with the present assessment year i.e. assessment year 2014-15. It is also undisputed that all throughout the years, assessment was completed u/s 143(3) of the Act and the subsidy has been accepted as 'Capital Receipt'. If in this assessment year i.e. 2014-15, the assessment was something erroneous and prejudicial to the interest of the Revenue then the Ld CIT (Appeals) could have resorted to revisionary jurisdiction u/s 263 of the Act. This is not done in the case of the assessee which means that Revenue has all throughout accepted that assessment was completed in the case of the assessee u/s 143(3) of the Act and the facts that the subsidy received are capital in nature. Then in similar facts and circumstances in the present assessment year i.e. 2014-15, in absence of any new material and evidence, taxing subsidy as 'Revenue Receipt' by the Revenue Authority is the exercise which can be termed as arbitrary, unjudicious, unwarranted and bad in law and therefore, liable to be deleted. Therefore, we are of the considered view that on examination of the facts and principle of status quo which has to be maintained as opined by the Hon'ble Supreme Court of India and High Courts in the aforesaid cases, we set aside the order of the Ld. CIT(Appeals) and allow the appeal of the assessee.”

4. After hearing the learned standing counsel and on going through the entire materials on record, in the light of the verdict passed by this Court on 24-07-2019 in Tax Case No. 10 of 2015 and connected cases, we are of the view that the appellant has not demonstrated involvement of any 'substantial question of law' to interfere in this matter in terms of Section 260A of the Income Tax Act, 1961.

5. Appeal fails and it is dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge