NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
TAXC No. 48 of 2019

Deputy Commissioner Of Income Tax -1(2) Bilaspur, Chhattisgarh.

---- Appellant

Versus

Jindal Power Limited Kharsia Raod, Raigarh, Chhattisgarh.

---- Respondent

For Appellant : Shri Amit Chaudhari and Ms. Naushina Ali, Advocates
For Respondent : Shri Sanat Kapoor and Shri Romir S. Goyal, Advocates

---

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

Judgment on Board

P.R. Ramachandra Menon, Chief Justice

20.01.2020

1. The appeal is arising from the order dated 15.01.2018 passed by the Income Tax Appellate Tribunal, Raipur Bench, Raipur in ITA No.210/RPR/2014.

2. On filing the return by the Assessee declaring a total income of Rs.98,66,03,568/-, the case was selected for scrutiny/assessment and the proceedings were completed in terms of Section 143(3) of the Income Tax Act, 1961 whereby an addition to the extent of Rs.3,36,18,098/- was made and assessed accordingly.

3. The course and proceedings pursued by the Department, made the Assessee to feel aggrieved, who filed an appeal before the Commissioner (Appeals) where the appeal was allowed in part. This made the

Department to take up a matter before the Tribunal referring to the facts and figures, where interference was declined and the appeal was dismissed. This, in turn is put to challenge in this appeal preferred by the Revenue, suggesting the following as substantial questions of law :

> "1. Whether in law and on facts & circumstances of the case, the ITAT is justified in upholding the decision of CIT (A) restricting the disallowance to Rs.1,23,83,429/- as against disallowance made by the AO at Rs.3,36,18,098/- on account of Corporate Social Responsibilities expenses as the AO has categorically mentioned in the assessment order that particulars of the villagers and communities where such development activities were carried out and nature of each and every activity with the quantum of expenditure incurred thereon also has not been furnished and no material whatsoever has been placed in support of occurrence of such activities ?
>
> 2. Whether in law and on facts & circumstances of the case, the ITAT is justified in confirming the order of CIT (A) who has erred by restricting the disallowance to Rs.1,23,83,429/- as against disallowance made by the AO at Rs.3,36,18,098/- of Corporate Social responsibility for the A.Y.2009-10, an issue which was decided as per the then prevalent legal provisions u/s 37(1) of the Act, 1961 for A.Y.2009-10, by taking resort to the amended provision of Explanation 2 of Section 37(1) of the I.T. Act, which was inserted by the Finance (No.2) Act, 2014 ?
>
> 3. Whether in law and on facts & circumstances of the case, the ITATA is justified in interpreting the

> Explanation 2 to Sec. 37(1) introduced w.e.f. 01.04.2015 when the Explanation itself starts with the phrase "for removal of doubts" thereby making its application retrospective and clarificatory in nature and the interpretation by ITAT as erroneous and is incorrect thereby rendering the decision, which is perverse ?"

4. Heard Shri Amit Chaudhari, the learned standing counsel for the Department at length.

5. Considering the nature of pleadings raised and also the discussion made by the Tribunal in detail, we are of the view that the decision has been rendered by the Tribunal clearly on question of facts and it does not involve any question of law; much less any substantial question of law.

6. This appeal is devoid of any merit, so as to have it entertained in terms of Section 260A of the Income Tax Act, 1961. Interference is declined and appeal stands dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Anu