Pradnya Bhogale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 1538 OF 2017

Pr. Commissioner of Income Tax-8 ..Appellant
vs.
M/s. Reliance Home Store Ltd. ..Respondent

………..

Mr. Suresh Kumar for Appellant.
Mr. P.C. Tripathi I/b. Mr. Raj Darak for Respondent.

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CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 8 JANUARY 2020

P.C.:-

Heard learned counsel for the parties.

2. The Appeal pertains to the Assessment Year 2010-2011.

3. The learned counsel for the Respondent has handed over copies of the decisions rendered in the Respondent-Assessee's own case for other assessment years wherein the questions of law raised in the present Appeal have been considered by this Court.

4. In this Appeal the Appellant-Revenue has raised the following questions as substantial questions of law :-

(A) "Whether on the facts and in circumstances of the case and in law, the Hon'ble Tribunal has erred in deleting disallowance in respect to expenses incurred in the preoperative period towards the project development cost, the assessee had treated the same expenditure as revenue for I.T. purposes whereas for all other purposes and laws it has treated the expenditure as capital expenditure ?

(B) "Whether on the facts and in circumstances of the case and in law, the Hon'ble Tribunal was justified in allowing the expenses incurred u/s. 37(1) of the Act without appreciating that admittedly and also as accounted by assessee in its books of account, the expenses were preoperative in nature and hence not admissible as expenditure u/s. 37(1) of the Act thereby allowing the assessee undue benefit and inadmissible benefit u/s. 37(1) of the Act, giving rise to a substantial question of law as envisaged by the Hon'ble Supreme Court in the case of Vijay Kumar Talwar vs. CIT in 330 ITR (1)(SC) ?"

5. As regards the first question of law regarding the project development cost to be treated as capital expenditure or revenue, the said question was considered in Income Tax Appeal No.892 of 2014 and Income Tax Appeal No.948 of 2014 and by order dated 5 July, 2017 the same has been held against the Appellant-Revenue.

6. As regards the second question raised, it was considered and held against the Appellant-Revenue in Income Tax Appeal No.197 of 2017.

7. In the circumstances, no substantial question of law arises in this Appeal. The Appeal is accordingly dismissed.

(M.S.KARNIK, J.) **(NITIN JAMDAR, J.)**