IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

INCOME TAX APPEAL NO. 24 OF 2019

The Pr. Commissioner of Income Tax-2 Nagpur
...Versus...
Western Coalfields Limited, Coal Estates, Civil Lines, Nagpur.

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Shri Anand Parchure, Advocate for appellant.
Shri K.P. Dewani, Advocate for Sole respondent

CORAM : A. S. CHANDURKAR &
N. B. SURYAWANSHI, JJ.
DATE : 06/01/2021

1. Heard.

2. Addition of Rs. 597.22 Lacs being value for fringe benefits in respect of expenditure on the welfare of employees by the Assessment Officer and maintained by the Commissioner of Income Tax [Appeals] but reversed by the Income Tax Appeal Tribunal is the subject matter of challenge in this appeal filed at the instance of the Revenue. These fringe benefits pertain to expenditure made in the context of value of free issue of coal, medical facilities, educational facilities, grants to school and institutions, sports and recreational facilities. The Tribunal has held that in view of the provisions of the National Coal Wage Agreement, the

provision of such benefits were made being statutory obligations and hence were not exigible to Fringe Benefit Tax.

3. Shri A. Parchure, learned counsel for the appellant submitted that not withstanding the National Coal Wage Agreement, with regard to the head Sports and Recreation Facilities, the provisions of Section 115 WB(2)(E) and explanation thereto introduced by virtue of Finance Act of 2008 such expenditure made was not to be considered as expenditure for employees welfare. He, therefore, submits that since the present proceedings pertain to the assessment year 2006-07, the explanation cannot be given retrospective effect.

4. Shri K.P. Dewani, learned counsel for the assessee submits that in the judgment of this Court in Income Tax Appeal No. 40 of 2015 concerning the same assessee, the provisions of National Coal Wage Agreement were taken into consideration and it was held that the same was an allowable expenditure being in the nature of a statutory obligation. He further points out that relevant clauses of the National Coal Wage Agreement (VII) and specially Clause 10.8.1 to indicate that sports as well as cultural programmes are included in welfare activities.

5. On hearing the learned counsel for the parties, it is clear that the implementation of the National Coal Wage Agreement has been held to a statutory obligation which is binding on the assessee. The expenditure towards sports and recreation facilities is also a part of that agreement as is clear from Clause 10.8.1. As regards other heads of expenditure, the same have already been considered in Income Tax Appeal No.40 of 2015 pertaining to the very same assessee. We therefore find that the Tribunal has rightly allowed the appeal filed by the assessee. No substantial question of law arises for consideration. The appeal is therefore, dismissed.

JUDGE **JUDGE**

J.Pethe