- Chitra Sonawane

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 128 OF 2018

Principal Commissioner of Income Tax -25 .. Appellant

Vs.

Reliance Michigan JV-Mithi River .. Respondent

.....

Mr. Ashok Kotangle a/w Mr. P.A. Narayanan for the appellant
Ms. Arati Vissanji i/b Mr. Atul K. Jasani for the respondent

.....

CORAM : K. R. SHRIRAM &
N.R. BORKAR, J.J.

DATED : 25th MARCH, 2022

P.C.

1. Following substantial questions of law are proposed in the appeal :-

> *"A. Whether, on the facts and in the circumstances of the case and in law, the Hon'ble Tribunal is justified in upholding the order of CIT(A) in deleting the addition of profits of Rs.1,11,31,669/- shown by M/s. Relcon Infra Projects Pvt. Ltd. and Rs.1,80,83,700/- shown by M/s. Michigan Engineers Pvt. Ltd. made by AO in assessee's hands on account of diversion of profits of the assessee-firm to its two partners?*
>
> *B. Whether, on the fact and in the circumstances of the case and in law, the Hon'ble Tribunal is justified in upholding the order of CIT(A) in deleting the total addition of Rs.11,52,11,105/- made in assessee's hands on account of bogus expenses claimed in the accounts of M/s. Relcon Infra Projects Pvt. Ltd. and M/s. Michigan Engineers Pvt. Ltd. on the ground that the AO of the assessee-firm had no*

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jurisdiction to examine the genuineness of these expenses in the hands of the assessee-firm?

2. We have considered impugned order of Income Tax Appellate Tribunal (ITAT) pronounced on 26.4.2017 and we do not find any perversity or reason to interfere.

3. As regards first question of law proposed, profits which Assessing Officer was wanting to add to the profits of respondent, have been shown by two partners in their accounts which have been accepted and separate assessment orders passed u/s 143(3) of the Income Tax Act, 1961 (the Act).

4. If some amount is also added to the income in the hands of respondent, it would create a situation of double taxation. In other words, same amount will be taxed in the hands of two assesses which is not permissible.

5. As regards second question of law proposed, disbursement of expenses claimed are by the partner of assessee company in their returns. Whether expenses claimed by the partners are genuine, can be the subject matter of examination and assessment only in the hands of those partners and not in the hands of respondent. This is the view CIT(A) as well as ITAT have taken and we are in agreement with this view.

6. In our view, the ITAT has not committed any perversity or applied incorrect principles to the given facts and when the facts and circumstances are properly analysed and correct test is applied to decide the issue at hand, then, we do not think that questions as

pressed raises any substantial questions of law.

7. The appeal is devoid of merit and is dismissed with no order as to costs.

(N.R. BORKAR, J.) **(K.R. SHRIRAM, J.)**