**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**
****

201 **ITA-10-2005 (O&M)**
Date of Decision: 03.12.2025

INDUSTRIAL CABLES PVT. LTD. ...Appellant

Vs.

COMMISSIONER OF INCOME TAX & ANR. …Respondents

**CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present:- Mr. Divya Suri, Advocate
for the petitioner

Mr. Saurabh Kapoor, Advocate
for respondent-Income Tax Department

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JAGMOHAN BANSAL, J. (ORAL)

1. The appellant through instant appeal under Sectio 260 A of the Income Tax Act, 1961 (for short '1961 Act') is seeking setting aside of order dated 23.09.2004 passed by Income Tax Appellate Tribunal (for short 'Tribunal') for the Assessment Year 1995-96.

2. The appellant has raised two questions with respect to addition/deduction. The appellant claimed deduction of Rs.6,24,819/- with respect to expenses incurred on guest house. The appellant claims that it paid lesser dearness allowance to its employees who used guest house, thus, there should be presumptive receipt from the employees against the actual expenditure incurred on guest house. The Assessing Authority denied deduction of expenses, however, Commissioner of Income Tax (Appeals) allowed the same. The matter travelled to Tribunal which by impugned order

set aside order of Commissioner of Income Tax (Appeals) and restored order of Assessing Authority. Relevant extracts of impugned order read as:-

> *"We have given careful consideration to the rival contentions. In our considered view, the disallowance of Guest House expenditure is to be made in accordance with the provisions of Act. The assessee has incurred the expenditure and claimed deduction thereof. Since the disallowance is statutorily provided, there is no scope for allowing set off of constructive recovery from the employees. As per the assessee's version as and when the employees stays in the Guest House of the company, he is entitled to lesser D.A and whatever actual D.A. has been paid to the employee is claimed as a deduction. In our view, the mere fact that the employees would be entitled to the higher D.A if they had not stayed in the Guest House of the Company does not justify to set off of the presumptive receipt from the employees against the actual expenditure incurred by the assessee company in respect of the Guest House. In our considered view, if the employees of the assesee had stayed in any other accommodation, the assessee would have incurred more expenditure which would qualify for deduction as expenditure incurred for the purposes of business but since the employees of the company have stayed in the Guest House owned by the assessee, the expenditure incurred in respect of the same falls for the disallowance u/s 37(4). Allowing the set off of the presumptive recovery, would defeat the provisions of section 37(4) which in our view, would be going against the legislative wisdom and the same is not justified. The Assessing Officer has not dealt with the claim of presumptive recovery specifically in any other year. In any case, the law does not permit set off for presumptive recovery We, therefore, do not approve of the view expressed by the Commissioner of Income-tax (Appeals) in this regard. We, therefore, set aside the order of the Commissioner of Income-tax (Appeals) and restore the disallowance of Rs. 6,24,819/-."*

3. The expenses were disallowed by Tribunal relying upon Section 37(4) of 1961 Act. Section 37(4) reads as:-

> *"(4) Notwithstanding anything contained in sub-section (1) or sub-section (3),*
>
> *(i) no allowance shall be made in respect of any expenditure incurred by the assessee after the 28th day of February, 1970, on the maintenance of any residential accommodation in the nature of a guest-house (such residential accommodation being hereafter in this sub-section referred to as "guest-house") ;*
>
> *(ii) in relation to the assessment year commencing on the 1st day of April, 1971, or any subsequent assessment year, no allowance shall be made in respect of depreciation of any building used as a guest-house or depreciation of any assets in a guest-house."*

4. It is apt to mention here that aforesaid sub-section stands omitted w.e.f. 01.04.1998. In the instant appeal period involved is prior to April' 1998. By Section 37(4), the Legislature has categorically denied expenses with respect to guest house. There is no challenge to said provision. In view of Section 37(4), there is no infirmity in the impugned order.

5. The appellant has raised another issue with respect to addition made on account of interest on interest-free loan advanced by appellant to its sister concern. The said question was raised by Department before this Court in *ITA-68-2002*. This Court vide order dated 21.12.2006 answered against the assessee.

6. Learned counsel for the appellant submits that appellant has preferred appeal before Hon'ble Supreme Court against order dated 21.12.2006 passed by this Court. The appeal is still pending.

7. Learned counsel for the respondent submits that appeal is pending before Hon'ble Supreme Court, however, there is no stay in favour of the appellant.

8. The issue of interest on interest-free loan advanced by appellant to its sister concern stands answered by this Court in *ITA-68-2002* as well as *ITA-86-2005*.

9. In view of orders passed in *ITA-68-2002* and *ITA-86-2005* by this Court, question of addition made on account of interest on interest-free loan advanced by appellant to its sister concern is answered against the appellant.

10. In the wake of above discussion and findings, this Court is of the considered opinion that the instant appeal deserves to be dismissed and accordingly dismissed.

11. Pending application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

(AMARINDER SINGH GREWAL)
JUDGE

December 03, 2025
Deepak DPA

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No