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(1995) 02 MAD CK 0047

In the Madras High Court

Case No : Tax Cases No. 315 and 316 of 1983 (Reference No''s. 145 and 146 of 1983)

Amalgamations Ltd. APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 09-02-1995

Acts Referred:
Income Tax Act, 1961 — Section 37

Citation : (1995) 216 ITR 102

Hon'ble Judges : T. Jayarama Chouta, J;K.A. Thanikkachalam, J

Bench : Division Bench

Advocate : P.P.S. Janarthana Raja, for the Appellant; C.V. Rajan, for the Respondent

Judgement

Thanikkachalam, J.—At the instance of the assessee, the Tribunal referred the following common question for our opinion :

Whether, on the facts and in the circumstances of the case, the Tribunal was right in disallowing a sum of Rs. 60,000 during 1977-78 and Rs.

55,000 during 1978-79 as representing the pension paid to the widow of Anantharamkrishnan in computing the income of the assessee-company

?

2. The assessee is a company whose shares were held by the estate of the late S. Anantharamakrishnan. The assessee-company paid a pension of

Rs. 60,000 during 1977-78 and Rs. 55,000 during 1978-79 to one Valli Anantharamakrishnan, wife of the late Anantharamakrishnan, who was

the chairman of the assessee-company from 1952 till the date of his death on April 18, 1964. The board of directors of the assessee-company

resolved to pay a pension of Rs. 5,000 per mensem to the widow taking note of the services rendered by Anantharamakrishnan. The Income Tax

Officer disallowed the claim for deduction on the ground that there was no agreement between the assessee-company and Anantharamakrishnan

for the payment of any pension and that Anantharamakrishnan was not an employee of the assessee-company and so the payment was not to the

widow of an employee. On appeal, the Commissioner of Income Tax (Appeals) upheld the order of the Income Tax Officer. On further appeal,

the Tribunal confirmed the disallowance made by the authorities below.

3. A similar question came up for consideration in the case of Amalgamations (P.) Ltd. Vs. Commissioner of Income Tax, in Tax Cases Nos.

1109, 1110 and 1180 of 1979 for the assessment years 1969-70 to 1971-72 to which one of us was a party (Thanikkachalam J.), wherein by

order dated August 30. 1994, this court answered the question referred to it at the instance of the assessee in the affirmative and against the

assessee. Since the facts and circumstances arising in the present case are similar and identical to the earlier case, following the earlier decision, we

answer the question referred to us in the affirmative and against the assessee. No costs.

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