(2002) 01 RAJ CK 0048

In the Rajasthan High Court

Case No : IT Ref. Application No. 57 of 1984 & Income Tax Reference Application No. 57 of 1984

Brigadier Narula APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 31-01-2002

Acts Referred:
Income Tax Act, 1961 — Section 16, 17

Citation : (2002) 175 CTR 534 : (2002) 257 ITR 751

Hon'ble Judges : Y.R. Meena, J;A.C. Goyal, J

Bench : Division Bench

Advocate : None, for the Appellant; Anroop Singhvi, for the Respondent

Judgement

1. On an application filed u/s 256(1) of the Income Tax Act, 1961, the Tribunal has referred the following questions for the opinion of this court:

"Whether the Tribunal was right in law in its interpretation of the proviso (ii) to Section 16(i) of the Income Tax Act, 1961, and thereby holding that the assessee is entitled to a standard deduction at Rs. 1,000 only and not at Rs. 2,500 as allowed by the Commissioner of Income Tax (Appeals) ?"

"Whether the Tribunal was right in law in holding that providing the car in terms of the instruction dated November 20, 1964, amounts to a perquisite u/s 17 of the Income Tax Act, 1961, and in sustaining an addition at Rs. 2,400 in the hands of the assessee ?"

2. The assessee, an individual, was a managing director of a public sector undertaking, namely, Instrumentation Ltd. The assessee declared an income of Rs. 30,207 that has been determined at Rs. 30,992. During the course of assessment it came to the notice of the Assessing Officer that the employer has provided a chauffeur driven car for the use of the assessee that was partly for official purpose and partly for non-official purpose. Even though the assessee claimed deduction of Rs. 2,400 u/s 16(i) of the Income Tax Act, 1961, that has

been disallowed by the Income Tax Officer. The Appellate Assistant Commissioner has allowed the claim of the assessee and the Tribunal has restored the view taken by the Assessing Officer,

3. None appeared for the assessee. Heard learned counsel for the Revenue. Learned counsel for the Revenue brought to our notice that the relevant assessment year is 1978-79 and in that year the provision was that if a car has been provided to the assessee by his employer, he is entitled to deduction u/s 16 of only Rs. 1,000. The relevant proviso of Clause (i) of Section 16 reads as under :

"(ii) where any motor car, motor cycle, scooter or other moped is provided to the assessee by his employer for use by the assessee, otherwise, than wholly and exclusively in the performance of his duties ; or

(iii) where one or more motor cars are owned or hired by the employer of the assessee and the assessee is allowed the use of such motor car or all or any of such motor cars, otherwise than wholly and exclusively in the performance of his duties,

the deduction under this clause shall not exceed one thousand rupees ;"

4. Considering the plain reading of the proviso of Clause (i) of Section 16, we find no infirmity in the order of the Tribunal.

5. In the result, we answer both the questions in the affirmative, i.e., in favour of the Revenue and against the assessee. The reference so made stands disposed of.