
(2008) 01 KAR CK 0057
In the Karnataka High Court
Case No : Income Tax A. No. 325 of 2003

Commissioner of Income Tax and Another	APPELLANT
Vs	
Micro Land Ltd.	RESPONDENT

Date of Decision : 09-01-2008

Acts Referred:

Income Tax Act, 1961 — Section 10 (14), 10 (5)

Citation : (2010) 323 ITR 670

Hon'ble Judges : K.L. Manjunath, J;Deepak Verma, J

Bench : Division Bench

Advocate : M.V. Seshachala, for the Appellant; S.R. Anuradha, for the Respondent

Final Decision : Allowed

Judgement

Deepak Verma, J.—Heard Sri M.V. Seshachala for the appellant and Smt. S. R. Anuradha for the respondent.

2. The Revenue is before us challenging the order passed by the Income Tax Appellate Tribunal in I. T. A. No. 996/Bang/97 decided on April 9, 2006. The appeal raises the following substantial questions of law:

(1) Whether the assessee-employer is bound to collect and verify the date of journey, place of journey, destination of journey, proof of having performed the journey, mode of journey and actual expenditure incurred in order to verify that the employees fall within the exemption contemplated u/s 10(5) of the Act and Rule 28 of the Income Tax Rules before granting exemption under the said provision ?

(2) Whether the Tribunal was correct in holding that the entire expenses claimed was exorbitant and 50 per cent, should be disallowed instead of 100 per cent. as held by the Assessing Officer as Section 10(14) of the Act was not satisfied as no uniform had to be purchased and owned by the employees to satisfy any common dress code ?

(3) Whether the Tribunal was correct in consequently reducing the interest, which was levied for short deduction of tax ?

3. During the course of the hearing, it has not been disputed before us that question No. 1 stands answered by the judgment of this Court passed on August 21, 2003 in I.T.A. No. 143 of 2002 CIT v. Larsen and Toubro Limited in favour of the assessee and against the Revenue. Thus, we need not answer the said question as it already stands answered. We are now required to answer questions Nos. 2 and 3 only.

4. Question No. 2 deals with reimbursement of attire allowance given by the assessee to its various employees and no tax deducted from these payments. The Tribunal came to the conclusion that 50 per cent. of the claim of the assessee can be allowed and actually granted the relief to the extent of 50 per cent.

5. The Revenue is before us challenging its finding on the ground that there was no rationale for granting the relief to the extent of 50 per cent. It is pertinent to mention here that the assessee has not preferred any appeal against the said order, whereby 50 per cent. of the attire allowance has been disallowed by the Tribunal.

6. After having critically gone through the said finding recorded by the Tribunal with regard to question No. 2, we are of the opinion that it requires reconsideration by the Tribunal as to on what basis relief to the extent of 50 per cent. has been granted to the assessee. That can be done only when the matter is remanded.

7. Question No. 3 deals with reducing of the interest, which was levied for short deduction of tax. An explanation was offered by the assessee that under bona fide mistake, the same could not be deposited. This question also required reconsideration so as to find whether the explanation offered by the assessee was bona fide or not.

8. After having gone through the finding recorded by the Tribunal on the aforesaid questions, we are of the considered opinion that the same require reconsideration by the Tribunal.

9. Therefore, it is desirable that the matter be remanded to the Tribunal for fresh hearing on questions Nos. 2 and 3 after affording opportunity of hearing to both sides.

10. Thus the impugned order passed by the Tribunal so far as it deals with questions Nos. 2 and 3 is hereby set aside and quashed. The matter is remanded to the Tribunal for fresh hearing as mentioned herein above.

11. Accordingly, the appeal is allowed.