

(2005) 07 BOM CK 0027
In the Bombay High Court
Case No : IT Ref. No. 56 of 1990

Commissioner of Income Tax

APPELLANT

Vs

Alfa Laval (I) Ltd.

RESPONDENT

Date of Decision : 15-07-2005

Acts Referred:

Income Tax Act, 1961 — Section 256(1)
Income Tax Rules, 1962 — Rule 6D

Citation : (2006) 200 CTR 240 : (2006) 282 ITR 445

Hon'ble Judges : V.C. Daga, J;A.S. Aguiar, J

Bench : Division Bench

Advocate : Ashok Katangale, for the Appellant;

Judgement

V.C. Daga, J.—By this reference u/s 256(1) of the IT Act, 1961, the Tribunal has referred the following questions of law for the opinion of this Court :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the disallowance under Rule 6D of the IT Rules, 1962, should be computed on the basis of total expenditure on each employee for the whole year and not on the basis of expenditure incurred on each trip ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the expenditure of Rs. 44,966 incurred by the assessee on the foreign trips of the wife of the company's president was wholly and exclusively incurred for the business of the assessee and was allowable as a deduction in computing the profits and gains of the business ?

2. So far as first question is concerned, the same is covered by the decision of this Court in the case of Commissioner of Income Tax Vs. Aorow India Ltd., . It is, therefore, answered in favour of the Revenue and against the assessee.

3. So far as second question is concerned, it relates to the expenditure of Rs. 44,966 incurred by the assessee-company on a foreign trip of the wife, who had accompanied her husband, the president of the assessee-company, who was

invited to attend an advanced management programme at Harvard University along with his wife. The CIT(A) has recorded a categorical finding of fact that the said expenses were incurred for the purposes of the business of the assessee. The said finding of fact has been affirmed by the Tribunal. Accordingly, Tribunal was pleased to allow deduction on this count.

4. Now the question is whether the Tribunal was right in its view. It is not in dispute that the expenses as a fact were incurred. The amount of expenses incurred is not in doubt. The expenses must stand to the test of commercial expediency. The test of commercial expediency cannot be reduced in the shape of a ritualistic formula, nor can it be put in a watertight compartment so as to be confined in a straitjacket formula. All that law requires is that the expenditure should not be in the nature of capital expenditure or personal expenditure of the assessee and it should be wholly and exclusively laid out for the purposes of the business. It is well-settled that items of expenditure are to be considered from the point of view of a normal, prudent businessman. The test merely means that the Court will place itself in the position of a businessman and find out whether the expenses incurred could be said to have been laid out for the purpose of the business. It seems that in the ultimate analysis the matter would depend on the status of the parties as spelt out and the nature or character of the trade or venture, the purpose for which the expenses were incurred and the object which was sought to be achieved in incurring those expenses.

5. Applying normal, prudent businessman's approach, we do not think that the expenses incurred by the assessee on a foreign trip of the wife of the company's president could be said to be not for the purposes of the business of the assessee-company. Considering the concurrent finding of fact recorded by both the authorities below, in our view, the expenditure would be allowable as deduction while computing the profits and gains of the business.

6. Before concluding, we wish to clarify that the case needs to be decided on its own facts primarily considering the business expediency. That, per se, the expenses incurred by the assessee on the foreign trip of the wife may not always be allowable as deduction in computing the profits and gains of the business unless it is connected with the business of the assessee.

7. We are, therefore, confirming our judgment to the facts of this case which we have decided in the light of the concurrent findings of fact recorded by both the authorities below.

ORDER

In the above view of the finding, the question is answered in affirmative, i.e., in favour of the assessee and against the Revenue. Reference, accordingly, stands disposed of with no order as to costs.