(2005) 10 MAD CK 0067

In the Madras High Court

Case No : Tax Case (Appeal) No. 836 of 2005

Commissioner of Income Tax — APPELLANT

Vs

Geetha Mohan — RESPONDENT

Date of Decision : 25-10-2005

Acts Referred:
Income Tax Act, 1961 — Section 10(100), 10(10C), 17, 89, 89(1)

Citation : (2005) 10 MAD CK 0067

Hon'ble Judges : P.D. Dinakaran, J;N. Kannadasan, J

Bench : Division Bench

Advocate : Pushya Sitaraman, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The above tax case appeal is directed against the order of the Tribunal in ITA No. 660/Mad/2004, dt. 2nd Feb., 2005.

2. The Revenue is the appellant. The assessment year involved is 2001-02. The case of the appellant is that the assessee/respondent herein, availed the benefit of the voluntary retirement scheme (VRS) and claimed exemption of the amount, of compensation received, both u/s 10(10C) and Section 89(1) of the IT Act.

3. The AO granted exemption as envisaged u/s 10(100) of the Act, but denied the exemption u/s 89(1) of the Act, on the ground that once exemption u/s 10(100) is allowed, Section 89(1) cannot be invoked. On appeal at the instance of the assessee, the CIT(A), taking the view that it is possible to interpret the sections both ways, and where there is an ambiguity, the benefit should be given to the taxpayer, allowed the appeal, which was confirmed by the Tribunal, on appeal by the Revenue.

4. Aggrieved by the same, the Revenue has preferred this appeal raising the following substantial question of law ;

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee is eligible to claim simultaneous benefit u/s 10(10C) as well as Section 89(1) of the IT Act, 1961 in respect of the compensation received under the VRS ?

5. It is fairly conceded by the learned Counsel appearing for the Revenue that the issue raised in the above question is squarely covered against the Revenue by the decision of this Court in Commissioner of Income Tax Vs. G.V. Venugopal, , wherein it is held as under: "The second proviso to Section 10(10C) only refers to exemption claimed in any other year. Every assessment year is a self-contained unit and the mere fact that the relief u/s 89 had been spread over several years, did not mean that the relief was not in respect of a particular assessment year. There was no prohibition to the twin benefits in respect of the amount received under the VRS. The relief contemplated u/s 89(1) is aimed to mitigate hardship that may be caused on account of the high incidence of tax due to progressive increase in tax rates. Payment under the VRS is covered by the word ''salary'' which has been given a very wide definition in Section 17. Since the assessee was covered by Section 89, he would get both the benefits."

6. In view of the above settled proposition, we do not see any merit in the appeal and hence, it is dismissed. No costs.