(1998) 11 MAD CK 0090

In the Madras High Court

Case No : Tax Case No. 594 of 1986 (Reference No. 429 of 1986)

Commissioner of Income Tax APPELLANT

Vs

K. Chockalingam RESPONDENT

Date of Decision : 11-11-1998

Acts Referred:
Income Tax Act, 1961 — Section 10(13A)

Citation : (2001) 248 ITR 557

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant; None, for the Respondent

Judgement

1. The assessee, an officer belonging to Indian Administrative Service, claims exemption for the amount of the house rent allowance received by him relying on Section 10(13A) of the Income Tax Act, 1961, in respect of the assessment year 1982-83. During that period, the assessee was living in his own house and he had not incurred any expenditure towards payment of rent. The claim of the assessee had been rejected by the Income Tax Officer but was accepted by the Appellate Assistant Commissioner on appeal. On further appeal, the Appellate Tribunal upheld the order of the Appellate Assistant Commissioner. In so doing, reliance was placed on the decision of the Punjab and Haryana High Court in the case of Commissioner of Income Tax Vs. Justice S.C. Mittal, . Section 10(13A) of the Income Tax Act was amended by the Taxation Laws (Amendment) Act, 1984, with retrospective effect from April 1, 1976, by adding an Explanation. The Explanation so added reads as under :

"Explanation.--For the removal of doubts, it is hereby declared, that nothing contained in this clause shall apply in a case where--

(a) the residential accommodation occupied by the assessee is owned by him ; or

(b) the assessee has not actually incurred expenditure on payment of rent by whatever name called in respect of the residential accommodation occupied by him ;"

2. Having regard to this Explanation, the assessoe who admittedly has not incurred expenditure on payment of rent, was clearly disentitled to claim the benefit of Section 10(13A) of the Act.

3. The question referred to us, viz., "whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee is entitled to exemption u/s 10(13A) of the Act even though he resides in his own house ?"

is answered in favour of the Revenue and against the assessee.

