(1997) 03 MAD CK 0147

In the Madras High Court

Case No : Tax Case No. 292 of 1984

Commissioner of Income Tax APPELLANT

Vs

M. Raman RESPONDENT

Date of Decision : 04-03-1997

Acts Referred:
Income Tax Act, 1961 — Section 17(3), 89, 89(1)

Citation : (2000) 245 ITR 856

Hon'ble Judges : N.V. Balasubramanian, J;Abdul Hadi, J

Bench : Division Bench

Advocate : C.V. Rajan, for the Appellant;

Judgement

N.V. Balasubramanian, J.—At the instance of the Revenue, the Tribunal has stated a case and referred the following question of law under s. 256(1) of the IT Act, 1961, for the asst. yr. 1982-83 for the opinion of the Court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the voluntary retirement from service would fall under the term ''termination of employment within the meaning of s. 17(3)(i) of the IT Act, 1961, and that the relief under s. 89(1) is admissible in respect of the amount received by the assessee-employee from the employer at the time of voluntary retirement ?"

2. The assessee has taken voluntary retirement from the service and received an amount of compensation at the time of his voluntary retirement. The question that arises is whether the compensation received by the assessee at the time of voluntary retirement would fall within the provisions of s. 17(3)(i) of the IT Act, 1961, that is, whether it can be regarded as the salary and the assessee would be entitled to the relief provided under s. 89 of IT Act, 1961. This Court in the case Commissioner of Income Tax Vs. J. Visalakshi, held that if an employee receives at the time of resignation, the amount could be regarded as salary and the assessee would be entitled to the relief provided under s. 89 of the IT Act,

1961. The said principle rendered by this Court in the case of resignation would equally apply to the case of voluntary retirement of an employee from service. Accordingly, the Tribunal was right in holding that the amount received by the employee at the time of voluntary retirement of service would be regarded as salary, and the relief under s. 89 of IT Act, 1961, would be admissible in respect of the amount received by the assessee from his employer at the time of voluntary retirement. Accordingly, we answer the question of law referred to us in the affirmative and against the Revenue. No costs.