(2007) 08 DEL CK 0156

In the Delhi High Court

Case No : IT Reference No. 228 of 1986

Commissioner of Income Tax — APPELLANT

Vs

Mohan Meakin Ltd. — RESPONDENT

Date of Decision : 22-08-2007

Acts Referred:

Citation : (2007) 08 DEL CK 0156

Hon'ble Judges : Madan B. Lokur, J;Dr. S. Muralidhar, J

Bench : Division Bench

Advocate : P.L. Bansal and Vishnu Sharma, for the Appellant; Prakash Kumar, for the Respondent

Final Decision : Disposed Off

Judgement

1. This reference pertains to the assessment years 1979-80 and arises out of two different reference application being RA No. 865/Delhi/85 and 866/Delhi/85. The following questions of law have been referred for our consideration:-

1 Whether having held that the guest house expanses were disallowable under sections 37(4) and 37(5), the Tribunal was justified in directing the Income Tax Officer to allow such expenses which related to the offering of food etc., to the employees during their official tour and in the course of their stay in such guest house?

2 Whether the Tribunal was correct on the facts and in the circumstances of the case in allowing weighted deduction u/s 35B in respect of salary of the staff engaged in providing technical know-how to the Govt. of Butane?

3 Whether the Income Tax Appellate Tribunal was correct in law and on facts in deleting the addition of Rs. 11,321/- made by the income tax Officer on account of ''Excise Penalty''?

2. In so far as question (1) is concerned, the admitted position is that in view of the decision of this Court in Commissioner of Income Tax Vs. Expo Machinery

Ltd., , the question of law is required to be answered in the affirmative, in favour of the Assessee and against the Revenue.

3. In so far as question (2) is concerned, the Tribunal has recorded that this issue had arisen in earlier assessment years also. The Revenue has accepted the view of the Tribunal in respect of the earlier assessment years and there is no reason why it should seek a reference only in respect of this particular year without agitating the question in respect of the earlier assessment years. Therefore, we decline to answer this question and return this question unanswered.

4. In so far as question (3) is concerned, we find that the tax effect in question is minimal and, therefore, we decline to answer this question and return this question unanswered. The reference is disposed of accordingly.