(2005) 03 AHC CK 0008

In the Allahabad High Court

Case No : Income Tax R. No. 95 of 1993

Commissioner of Income Tax APPELLANT

Vs

M.S. Bagga RESPONDENT

Date of Decision : 15-03-2005

Acts Referred:
Income Tax Act, 1961 — Section 256(1)

Citation : (2006) 284 ITR 577 : (2006) 154 TAXMAN 176

Hon'ble Judges : R.K. Agrawal, J;Prakash Krishna, J

Bench : Division Bench

Advocate : A.N. Mahajan, for the Appellant; R.S. Agrawal, for the Respondent

Judgement

1. The Income Tax Appellate Tribunal, Allahabad, has referred the following questions of law u/s 256(1) of the Income Tax Act, 1961, hereinafter referred to as "the Act", for opinion to this Court :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that the incentive bonus paid to the Development Officer of Life Insurance Corporation of India is not chargeable to tax under the head ''Salary'' ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that the incentive bonus earned by the Development Officers of LIC is business income and expenditure incurred in earning incentive bonus is an allowable deduction ?

2. The present reference relates to the assessment years 1984-85 and 1985-86.

3. Briefly stated the facts giving rise to the present reference are as follows :

4. The respondent-assessee is a Development Officer in Life Insurance Corporation of India, Kanpur. He has received incentive bonus and also incurred certain expenditure, which he claimed as deduction. The Income Tax Officer treated the incentive bonus as a part of the salary and disallowed the claim of

expenditure. However, the Tribunal has held that the expenditure incurred in earning incentive bonus is allowable as deduction.

5. We have heard Sri A.N. Mahajan, learned standing counsel for the Revenue, and Sri R.S. Agrawal, learned Counsel appearing for the respondent-assessee.

6. In view of the decision of this Court in I. T. R. No. 30 of 1989, The Commissioner of Income Tax Vs. Shri Ganesh Chand Saxena, , decided on December 22, 2004, a similar question has been answered in favour of the Revenue and against the assessee. We, accordingly, answer both the questions referred to us in the negative, i.e., in favour of the Revenue and against the assessee. However, there shall be no order as to costs.