(2005) 04 AHC CK 0045

In the Allahabad High Court

Case No : Income Tax R. No. 14 of 1995.

Commissioner of Income Tax — APPELLANT

Vs

Ramesh Chandra Agarwal — RESPONDENT

Date of Decision : 01-04-2005

Acts Referred:

Income Tax Act, 1961 — Section 16, 256(1)

Citation : (2006) 286 ITR 655 : (2006) 151 TAXMAN 179

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

Bench : Division Bench

Advocate : Shambhu Chopra, for the Appellant; None, for the Respondent

Judgement

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

Whether, on the facts and in the circumstances of the case, the Tribunal was correct in directing the Assessing Officer to consider the claim of deduction on account of expenses incurred against income from incentive bonus, held assessable as income under the head ''Salary'' ?

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

3. The reference relates to the assessment years 1988-89 and 1989-90.

4. The respondent-assessee is a Development Officer in the Life Insurance Corporation of India. He has received incentive bonus. The Assessing Officer has treated the amount of incentive bonus as part of salary and did not allow any expenditure incurred by the respondent-assessee for earning that incentive bonus apart from the standard deduction permissible u/s 16(i) of the Act. However, the Tribunal has allowed the expenditure.

5. We have heard Sri Shambhu Chopra, learned standing counsel for the Department and none appeared on behalf of the respondent-assessee.

6. We find that this court in ITR No. 95 of 1993 Commissioner of Income Tax Vs. M.S. Bagga, decided on March 15, 2005, has held that the incentive bonus forms part of salary and the expenditure incurred over and above the standard deduction is not assessable as income under the head "Salary". (sic)

7. Respectfully following the aforesaid decision, we answer the question referred to us in the negative, i.e., in favour of the Revenue and against the assessee. There shall be no order as to costs.