
(1986) 03 CAL CK 0039

In the Calcutta High Court

Case No : Income-tax Reference No. 380 of 1977

Commissioner of Income Tax

APPELLANT

Vs

Ramzo Colma

RESPONDENT

Date of Decision : 10-03-1986

Acts Referred:

Income Tax Act, 1961 — Section 15, 16, 17

Citation : (1988) 172 ITR 451

Hon'ble Judges : Shyamal Kumar Sen, J; Dipak Kumar Sen, J

Bench : Division Bench

Advocate : Sunil Mukherji, for the Appellant; R.N. Datta, for the Respondent

Judgement

Dipak Kumar Sen, J.—On an application of the Revenue u/s 256(1) of the Income Tax Act, 1961, the following questions have been referred by the Tribunal as questions of law arising out of its order for the opinion of this court:

"1. Whether, on the facts and in the circumstances of the case and having regard to the terms and conditions of the agreement dated August 31, 1966, between M/s. Monte Catini Edison, S.P.A., Italy, and the Fertilizer Corporation of India Ltd., the Appellate Tribunal was right in holding that the assessee served in India not as an employee of the Fertilizer Corporation of India Ltd., but in the capacity of an employee of M/s. Monte Catini Edison, S.P.A. ?

2. If the answer to question No. 1 is in the affirmative, then whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding not to gross up the salaries on tax on tax basis for the purpose of inclusion of the tax as perquisite in the hands of the assessee ?"

3. We correct question No. 2 as follows :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding not to gross up the salaries on tax on tax basis for the purpose of inclusion of the tax as perquisites in the hands of the assessee ?"

4. The controversies raised in the question are covered by a decision of this court in N. Sciandra Vs. Commissioner of Income Tax, . Following the said decision, we answer both the questions in the affirmative and in favour of the assessee.

5. There will be no order as to costs.

Shyamal Kumar Sen, J.

6. I agree.