

(1996) 06 MAD CK 0041

In the Madras High Court

Case No : Tax Case No. 265 of 1983 (Reference No. 96 of 1983)

Commissioner of Income Tax

APPELLANT

Vs

U. Mohan Rao

RESPONDENT

Date of Decision : 18-06-1996

Acts Referred:

Income Tax Act, 1961 — Section 16, 28

Citation : (1997) 143 CTR 292 : (1997) 227 ITR 72 : (1997) 93 TAXMAN 11

Hon'ble Judges : N.V. Balasubramanian, J;K.A. Thanikkachalam, J

Bench : Division Bench

Advocate : Deokinandan, for the Appellant; K.M.L. Majele, for the Respondent

Judgement

K.A. Thanikkachalam, J.—At the instance of the Department, the Tribunal referred the following question for the opinion of this court u/s

256(1) of the Income Tax Act, 1961 :

Whether, on the facts and in the circumstances of the case and having regard to the provisions of section 16 of the Income Tax Act, 1961, the

Appellate Tribunal was right in holding that the assessee was entitled to standard deduction of Rs. 4,500, u/s 16(i) since the assessee was getting

the salary income from the two employers ?

2. The assessee is Mr. U. Mohan Rao who was an employee in the capacity of managing director in two companies, namely, Cutfast Abrasive

Tools Pvt. Ltd., and Cutfast Bonded Abrasives Pvt. Ltd., receiving remuneration from each of the companies. He was provided with a car by

Cutfast Abrasive Tools Pvt. Ltd., for the purpose of his employment and in regard to his income by way of salary from this company, he claimed a

standard deduction of Rs. 1,000. From the other company, namely, Cutfast

Bonded Abrasives Pvt. Ltd., he did not get any conveyance and he claimed a standard deduction of Rs. 3,500. Thus, against the salary income derived from both the companies, he claimed a deduction of Rs. 4,500. The Income Tax Officer held that since the income derived from salary from each of the companies was to be charged under the head "Salaries", only one consolidated deduction of Rs. 1,000 is admissible and accordingly restricted the deduction in the assessment. On appeal, the Commissioner of Income Tax (Appeals) accepted the assessee's contention and directed deduction as claimed by the assessee. The Department came in appeal against this order and the Tribunal on consideration of the relevant provisions of the Act upheld the order of the Commissioner of Income Tax (Appeals) and rejected the objection of the Department.

3. Before us, learned standing counsel appearing for the Department submitted that after the introduction of the Explanation by the Taxation Laws (Amendment) Act, 1984, the Explanation came into existence with retrospective effect from April 1, 1975. The assessment year in the present case is 1978-79.

4. According to the Explanation, for the removal of doubts, it is hereby declared that where, in the case of an assessee, salary is due from, or paid or allowed by, more than one employer, the deduction under this clause shall be computed with reference to the aggregate salary due, paid or allowed to the assessee and shall in no case exceed the amount specified under this clause.

5. From Cutfast Abrasive Tools Pvt. Ltd., by way of salary, the assessee got Rs. 79,565. From Cutfast Bonded Abrasives Pvt. Ltd., by way of salary the assessee got Rs. 27,155. In view of the proviso, both these salaries are liable to be consolidated.

6. According to the proviso, where the assessee was provided with a motor car for the purpose of his own use other than use for employment, the deduction under this clause shall not exceed Rs. 1,000. In the present case, a car is provided to the assessee by Cutfast Bonded Abrasives Pvt. Ltd., for the purpose of employment. Therefore, the proviso cannot be made applicable in the case of the assessee while granting standard deduction u/s 16 of the Act. If that is so, when the salary derived by the assessee exceeds Rs. 10,000, the assessee would get standard deduction

of Rs. 2,000 plus 10 per cent, of the amount by which such salary exceeds Rs. 10,000 or Rs. 3,500 whichever is less. For the purpose of granting

standard deduction, we are consolidating Rs. 79,565, with Rs. 27,155. The total comes to Rs. 1,06,720. In such a case, the assessee would get

standard deduction at Rs. 3,500, in the present case. Therefore, the Tribunal was not correct in granting Rs. 4,500 (Rs. 3,500 + 1,000), as

claimed by the assessee. In that view of the matter, we hold that the Tribunal is correct in granting standard deduction u/s 16(i) of the Act to the

extent of Rs. 3,500 but not correct in granting Rs. 1,000 more than what the assessee is entitled to. We also hold that the Tribunal was not correct

in granting two standard deductions for two salaries received by the assessee from two employers. Accordingly, inasmuch as the question referred

to us does not reflect the correct issue arising in this case, we are framing the question as under :

Whether, on the facts and circumstances of the case, in view of the provisions contained in section 16 of the Income Tax Act, 1961, the Appellate

Tribunal was right in holding that the assessee was entitled to standard deduction of Rs. 3,500 since the assessee was getting salaries income from

two employers without providing a car for personal use ?

7. In view of the foregoing reasons we answer the abovesaid question in the affirmative and against the Department. No costs.