

(2012) 10 JH CK 0063
In the Jharkhand High Court
Case No : T.A. No. 13 of 2001

Commissioner of Income Tax, Ranchi

APPELLANT

Vs

Central Coal Fields Ltd.

RESPONDENT

Date of Decision : 12-10-2012

Acts Referred:

Income Tax Act, 1961 — Section 115J, 37(4), 43(6), 50

Citation : (2012) 4 JCR 529 : (2012) 4 JLJR 536

Hon'ble Judges : Prakash Tatia, C.J.;Jaya Roy, J

Bench : Division Bench

Advocate : Deepak Roshan and Miss Rupa Kumari, for the Appellant; B. Poddar, M/s. Mahendra Kr. Choudhary, Piyush Poddar, Miss Darshana Poddar and Amrita Sinha, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard Learned Counsel for the parties. Four questions have been raised by the appellant/revenue in this Tax Appeal No. 13 of 2001 which are as follows:-

(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in treating part of guest house expenditure as revenue expenditure u/s 37(4) of the Income Tax Act, 1961 for the assessment year 1990-91?

(2) Whether on the facts and in the circumstances of the case, the Tribunal was justified in giving relief of Rs. 16,15,298/- to the assessee in respect of claim of guest house expenses for the assessment year 1990-91?

(3) Whether on the facts and in the circumstances of the case, the Tribunal was justified to hold that provision for wages of Rs. 48,19,00,000/- should be set off against the income for assessment year 1989-90 for computation of taxable income for the assessment year 1990-91 for the purpose of section 115J of the Income Tax Act?

(4) Whether on the facts and in the circumstances of the case, the Tribunal was justified in allowing relief to the assessee on the issue of allowing depreciation on sale off assets/surveyed off assets for the assessment year 1990-91 Rs. 39,42,000/- in the light of the provisions of section 43(6) and section 50 of the Income Tax Act?

2. Learned counsel for both the parties submitted that question Nos. 1, 2 and 4 have already been answered by this Court in Tax Appeal No. 14 of 1999(R) (Commissioner of Income Tax Vs. M/s. Central Coalfields Limited) vide order dated 13th June, 2012 which was the matter between the parties.

3. In view of the above reasons, we need not to give answer to the question Nos. 1, 2 and 4 and the appeal is decided accordingly in the light of decision given in Tax Appeal No. 14 of 1999(R) dated 13th June, 2012.

4. The question No. 3 is with respect to the provision for wages and its set off against the income for the assessment year 1989-90. Admittedly, as per the order passed by the I.T.A.T., Patna Bench, Patna, which is the impugned order, in para 4 it has been mentioned that so far as wage liability disallowance issue is concerned, the assessee had claimed this expenditure in their books of accounts of assessment year 1989-90 and consequently they had not claimed it in their books of account of assessment year 1990-91. The Tribunal held that the assessee was unjustified in claiming the same in the assessment year 1990-91. The Tribunal further held that this expenditure has got to be taken into account in the computation of taxable income for the purpose of Section 115J and on this ground the assessee's appeal was allowed. Learned counsel for the revenue could not satisfy that because of this decision of I.T.A.T. there will be any variation in the tax effect. Therefore, there is no need to answer this question and the appeal is liable to be dismissed because it is not affecting the revenue in any manner. Hence, the appeal is dismissed.