(2002) 08 MAD CK 0128

In the Madras High Court

Case No : Tax Case No. 322 of 1993 12 August 2002

Southern Switchgear Ltd. APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 12-08-2002

Acts Referred:

Citation : (2002) 125 TAXMAN 44

Hon'ble Judges : R. Jayasimha Babu, J;K.P. Sivasubramaniam, J

Bench : Full Bench

Advocate : P.P.S. Janarthana Raja, for the Assessee T.C.A. Ramanujam, for the Revenue, for the Appellant;

Judgement

R. Jayasimha Babu, J.

The assessment year is 1984-85. The question referred is as to "whether, on the facts and in the circumstances of the case, the Tribunal is right in disallowing Rs. 13,500 paid to one of the employees of the applicant''s company as part of salary by invoking section 40A(5) of the Income Tax Act, 1961 ?

2. This court in the case of Sundaram Clayton Ltd. Vs. Commissioner of Income Tax, has held, following the earlier decision of the Supreme Court in the case of Commissioner of Income Tax, Bombay, etc. Vs. M/s. Mafatlal Gangabhai and Co. (P) Ltd., , that cash payment like house rent allowance paid to the employees should be treated as salary for the purpose of determining the ceiling, u/s 40A of the Income Tax Act, 1961.

3. In this case also, the amount paid to the employees is towards the house rent. As the question raised in this case is similar to the one referred to and considered in the decision of this court referred to earlier, the same needs to be answered in favour of the revenue.

4. Following the law laid down in that judgment, our answer to the question referred to is in favour of the revenue and against the assessee.

