

THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE R. KANTHA RAO

—
REFERRED CASE No.1 of 2004
—

ORDER: (Per Hon'ble Sri Justice V.V.S.Rao)

The Commissioner of Income Tax, Hyderabad, got the following question referred to the opinion of this Court under Section 256(1) of the Income Tax Act, 1961 (the Act).

Whether on the facts and in the circumstances of the case, the ITAT was correct in law in holding that the additional conveyance allowance received by the assessee from his employer is entitled to exemption under Section 10(14) of the IT Act to the extent, the expenditure was actually incurred by him on conveyance?

The brief fact of the matter is as follows. The respondent/assessee was a Development Officer in the Life Insurance Corporation of India. For the relevant assessment year, he received additional conveyance allowance. He claimed the entire conveyance allowance as exempt under Section 10(14) of the Act. The Assessing Officer disallowed the same. But, the Commissioner of Income Tax (Appeals) allowed the claim. In the Revenue's appeal, the Tribunal held that exemption under Section 10(14)(i) of the Act is available to the assessee in respect of additional conveyance allowance, only to the extent expenditure conveyance allowance has actually been incurred by the assessee. Aggrieved by the same, the Revenue sought reference of the question to this Court.

During the course of arguments, the Junior Standing Counsel brought to our notice an unreported decision of this Court in **Commissioner of Income Tax, Visakhapatnam v P.V.Narasimaha Rao, Visakhapatnam** (Referred Case No.117 of

1992, dated 10.10.1996). Considering the similar question, this Court held as under.

... In our view where amounts are paid to the employees by an employer to meet expenses wholly, necessarily and exclusively for the performance of the duties, such amounts can be exempted to the extent it is shown that it has been incurred for the purpose for which it was granted. In the case of employees of the State or Corporations, whether statutory or otherwise, where the employer after having surveyed the actual expenditure necessary for performance of the duty, grants monthly allowance generally to all the employees, it is to be presumed that the entire expenditure has been incurred for the purpose for which it has been granted, for it is not incurred for which it has been given, it would entail disciplinary action against the employee. Unless such a case has been initiated against an employee by an employer, the said presumption that the employee has incurred the expenditure for which it is granted, will apply and it will not be necessary for the employees to submit accounts every month to the employer and along with return to the assessing authority. If, in such matters, filing of the accounts and vouchers/receipts are insisted upon to claim exemption under Section 10(14) of the Act by the Income-tax authorities, it will lead to avoidable waste of time and expenditure and would serve no useful purpose but on the contrary it would be counter productive. In this view of the matter, we hold that the additional conveyance allowance is exempt under Section 10(14) of the Act. ...

The answer to the question referred to is therefore covered by the judgment in **P.V.Narasimha Rao**. Accordingly, the reference is answered in the affirmative in favour of the assessee and against the Revenue.

The Referred Case is accordingly disposed of.

(V.V.S.RAO, J)

(R.KANTHA RAO, J)

20.12.2011

vs