

**Brigadier Narula Vs. Cit**

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**Court :** Rajasthan

**Decided On :** Jan-31-2002

**Reported in :** [2002]123TAXMAN108(Raj)

**Appeal No. :** D.B. IT Ref. Application No. 57 of 1984 31 January 20

**Appellant :** Brigadier Narula

**Respondent :** Cit

**Advocate for Pet/Ap. :** Anroop Singhvi, *for the Revenue*

**Judgement :**

On an application filed under section 256(1) of the Income Tax Act, 1961, the Tribunal has referred the following questions for the opinion of this court :

"1. Whether the Tribunal was right in law in its interpretation of proviso (ii) to section 16(i) of the Income Tax Act, 1961 and thereby holding that the assessee is entitled to standard deduction at Rs. 1,000 only and not at Rs. 2,500 as allowed by the Commissioner (Appeals) ?

2. Whether the Tribunal was right in law in holding that providing the car in terms of the instruction dated 20-11-1964 amounts to a perquisite under section 17 of the Income Tax Act, 1961 and in sustaining addition at Rs. 2,400 in the hands of the assessee ?"

2.

The assessee, an individual, was a managing director of a public sector undertaking, namely, Instrumentation Ltd. The assessee declared income of Rs. 30,207 that has been determined at Rs. 30,992. During the course of the assessment, it came to the notice of the assessing officer that the employer has provided a chauffeur driven car for the use of the assessee that was partly for official purpose and partly for non-official purpose. Even though assessee claimed deduction of Rs. 2,400 under section 16(i) of the Income Tax Act, 1961 (hereinafter referred to as the Act), that has been disallowed by the Income Tax Officer. The Appellate Assistant Commissioner has allowed the claim of the assessee and the Tribunal has restored the view taken by the assessing officer.

3.

None appeared for the assessee. Heard the learned counsel for the revenue. The learned counsel for the revenue brought to our notice that relevant assessment year is 1978-79 and in that year the provision was that if car has been provided to the assessee by his employer, he is entitled to deduction under section 16 of only Rs. 1,000. The relevant proviso to sub-section (1) of section 16 reads as under :

1. Where any motor-car, motor cycle, scooter or other moped is provided to the assessee by his employer for use by the assessee, otherwise than wholly and exclusively in the performance of his duties; or

2. Where one or more motor-cars are owned or hired by the employer of the assessee and the assessee is allowed the use of such motor-car or all or any of such motor-cars, otherwise than wholly and exclusively in the performance of his duties,

(the deduction under this clause shall not exceed one thousand rupees;)

Considering the plain reading of second proviso, clause (ii) of sub-section (1) of section 16, we find no infirmity in the order of the Tribunal.

4.

In the result, we answer both the questions in the affirmative, i.e., in favour of the revenue and against the assessee. The reference so made stands disposed of.

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