

H.M. Pareek Vs. Cit

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Court : Rajasthan

Decided On : Jul-05-2002

Reported in : [2002]124TAXMAN335(Raj)

Appeal No. : D.B. IT Reference No. 18 of 1995 5 July 2002

Appellant : H.M. Pareek

Respondent : Cit

Advocate for Pet/Ap. : Anuroop Singhi, *for the Assessee*

Judgement :

ORDER

On an application filed under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act'), the Tribunal has referred the following question for our opinion :

'Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that no deduction is allowable from the incentive bonus received by the Development Officers of the Life Insurance Corporation of India as incentive bonus is a part of salary ?'

2. The assessee is a salaried employee of the Life Insurance Corporation of India (hereinafter referred to as 'LIC'). In addition to the salary from LIC, the assessee received 'incentive bonus' of Rs. 1,15,106 from the LIC. The assessee claimed

deduction at the rate of 40 per cent on the amount of this incentive bonus as estimated expenses for earning such incentive bonus. The Income Tax Officer disallowed the claim of the assessee.

3. In appeal before the Deputy Commissioner (Appeals), the Deputy Commissioner (Appeals) confirmed the view taken by the Income Tax Officer.

4. In appeal before the Tribunal, the Tribunal has also taken the view that when the Development Officer of LIC is a salaried employee, whatever the incentive bonus he received, that is covered by the definition of 'salary' and, hence, he is entitled only to those deductions, which are admissible for computation of income from salary.

5. None appeared for the assessee. Heard the learned counsel for the revenue, Mr. Singhi. The learned counsel for the revenue submits that when the Development Officer is full time salaried employee and his income has been assessed under the head 'Salary', whatever he receives including the income in the form of incentive bonus, that forms part of the salary. He further submits that once that forms part of the salary, there is no question of any deduction out of that amount, i.e., incentive bonus and the assessee is only entitled for the standard deduction, which is made available for the employees. In support of his contentions, he has placed reliance on the decision of the Bombay High Court in the case of CIT v. Gopal Krishna Suri : [2001]248ITR819(Bom) . At page 826, the Bombay High Court took the following view :

'..... We have discussed the scheme of payment of incentive bonus hereinabove which shows that the incentive bonus forms part of salary. The said payment is includible in the computation of income under the head 'Salary'. Once a receipt forms part of income under the head 'Salary', then section 16 squarely applies. Under section 16, a standard deduction is prescribed. We, therefore, do not see any reason for coming to the conclusion that net incentive bonus alone was includible in the computation of income under the head 'Salary'. The word 'salary' under section 17(1)(iv) is very wide. The word 'salary' under section 17(1) is an inclusive definition. It includes any fees, commissions, perquisites or profits in lieu of salary or profits in addition to any salary or wages. Under the circumstances, we

do not find any merit in the contention advanced on behalf of the assessee that only net incentive bonus was includible in the computation of income under the head 'Salary'. There is no provision to that effect in section 16 of the Income Tax Act. Once we hold that the incentive bonus is includible in the computation of income under the head 'Salary' and once we hold that the word 'salary' includes fees, commissions, perquisites or profits in lieu of or in addition to salary, then the intent of the legislature is very clear, viz., to tax the entire incentive bonus as income under the head 'Salary'....'

6. We agree with the Bombay High Court that once the incentive bonus forms part of the salary, there is no question of any deduction out of that bonus amount, the Tribunal has rightly held that the assessee is not entitled for 40 per cent deduction out of the incentive bonus.

7. In the result, we answer the question in the affirmative, i.e., in favour of revenue and against the assessee.

8. Reference so made stands disposed of accordingly.

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