

Cit Vs. Dinesh Lahoti

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Court : Rajasthan

Decided On : Aug-19-2002

Reported in : [2003]131TAXMAN500(Raj)

Appeal No. : D.B. Income Tax Ref. No. 35 of 1998 19 August 2002

Appellant : Cit

Respondent : Dinesh Lahoti

Advocate for Pet/Ap. : Anuroop Singh and J.K. Singhi, *for the Revenue* Dinesh Kumar and R.P. Garg, *for the Assessee*

Judgement :

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

'Whether on the facts and in the circumstances of the case and having regard to the Rajasthan High Court decision in the case of CIT v. Shivraj Bhatia 133 CTR 379 (Raj) the Income Tax Appellate Tribunal was justified in holding that the disallowance of expenses against incentive bonus received by the assessee from LIC was outside the scope of prima facie adjustment under section 143(1)(a)?'

2. While processing the return under section 143(1)(a) of the Income Tax Act, 1961, the assessing officer made disallowance of Rs. 17,170 claimed as deduction by the assessee from incentive bonus earned by him, in his capacity as

Development Officer of LIC. The assessee moved an application under section 154 seeking rectification of the intimation to the effect that incentive bonus was separate from salary income and hence that expenditure incurred to earn the same should have been allowed. The assessing officer projected the application of the assessee vide his order dated 28-5-1993.

3. In appeal before the Deputy Commissioner (Appeals), the Deputy Commissioner (Appeals) has allowed the claim of the assessee on the ground that the allowability of expenses from the income of incentive bonus was a debatable issue and hence could not fall within the scope of proviso as contemplated in section 143(1)(a) of the Act. In appeal before the Tribunal, the Tribunal has confirmed the view taken by Deputy Commissioner (Appeals).

4. Heard learned counsel for the parties.

5. The facts stated above are not in dispute that assessee has claimed the deduction of expenditure from incentive bonus received by him. The fact is also not in dispute that assessee is an employee of LIC. Consistent, view has been taken by this court since the case of CIT v. Shiv Raj Bhatia (1996) 133 CTR (Raj) 379, that when Development Officer of the LIC is an employee of the LIC and he received any amount in the form of incentive bonus, no deduction can be allowed to the employee. If he received anything from the employer, only standard deduction can be allowed to the employee and no other type of deduction in the form of expenditure can be allowed. That view has been taken by the assessing officer in this case, though in intimation under section 143(1)(a).

6. Thereafter, assessee moved an application under section 154. Section 154 provides only for corrections of apparent mistakes. As there was no apparent mistake and issue involved is debatable, assessing officer cannot correct the mistake on a debatable issue under section 154 of the Act.

Following the consistent view taken by this court in the case of Shiv Raj Bhatia (supra) and considering the fact that issue involved is debatable, that cannot be corrected in order under section 154 of the Act, 1961. In our view, the Tribunal has committed error in allowing the claim of the assessee.

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

The reference so made stands disposed of.

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