

Cit Vs. V. Sekar

Cit Vs. V. Sekar

SooperKanoon Citation : sooperkanoon.com/835339

Court : Chennai

Decided On : Oct-07-2002

Reported in : [2003]129TAXMAN226(Mad)

Appeal No. : Tax Case No. 48 of 1998 7 October 2002

Appellant : Cit

Respondent : V. Sekar

Advocate for Pet/Ap. : Mrs. Pushya Sitharaman, *for the Revenue*

Judgement :

K. Raviraja Pandian, J.

The question referred to us at the instance of the revenue is :

'Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that 80% of the additional conveyance allowance should be allowed as a deduction?'

The assessment year is 1986-87.

2. The assessee is Development Officer in Life Insurance Corporation. The assessee claimed that additional conveyance allowance received by him should be allowed as a deduction. The assessing officer rejected that claim. On appeal by

the assessee, the Deputy Commissioner, following its earlier decision has held that 2096 of additional conveyance allowance should be allowed as a deduction. The Appellate Tribunal following the decision of the Tribunal held that 8096 of the additional conveyance allowance should be allowed as a deduction. Hence, the reference at the instance of the revenue.

3. The issue involved in this case has already been considered by this court in the case of CIT v. P. Arangasamy : [2000]242ITR563(Mad) wherein this court held that, 'the Development Officer is not an independent contractor nor is he partner with the LIC in the business of life insurance by reason of the fact that he is able to reduce the percentage of the expenditure incurred on him in relation to the premium income generated by him to a figure below 20 per cent. As a full time employee, the Development Officer receives salary and that salary is liable to suffer a decrease if his efficiency falls below a standard which is measured by the cost ratio. He is given an incentive for efficient performance which has resulted in the cost ratio being brought down. The amount paid as incentive, the amount paid as remuneration as also the amount paid after deducting the disincentives constitute the salary in the hands of the employees receiving those amount. Such payments do not have any other legal character'. By holding so, the Bench answered the question in favour of the revenue and against the assessee.

4. In the light of the above decision, we answer the question referred to in favour of the revenue and against the assessee.