

Vinjane Centre Vs. Dy. Cit

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Court : Chennai

Decided On : Jun-24-2002

Reported in : [2002]258ITR191(Mad)

Appeal No. : Tax Case (Appeal) No. 45 of 2002 24 June 2002

Appellant : Vinjane Centre

Respondent : Dy. Cit

Advocate for Pet/Ap. : Ms. Anitha Sumanth and Ms. Mallika Srinivasan, *for the Assessee* T.C.A. Ramanujam, *for the Revenue*

Judgement :

V.S. Sirpurkar, J.

The substantial question of law that could be raised in this appeal is :

'Whether the Tribunal's order is vitiated on account of utter non-application of mind ?'

2. Learned senior counsel presses this appeal on the sole ground of non-application of mind on the part of the Tribunal. He points out that in the first seven or eight paragraphs, the Tribunal has merely quoted the contentions and counter contentions by the assessee and the department, respectively. Learned senior counsel points out that the assessee had raised as many as seven grounds. It is

further submitted that the whole order is finished by the Tribunal in paragraphs 8 and 9 by merely quoting the findings recorded by the Commissioner (Appeals) in his paragraphs 11, 14, 16 and 18 to 21. Beyond certifying those findings to be correct, the Tribunal does not seem to have applied its mind at all. We do not know as to why the Tribunal has held that the Commissioner (Appeals) was correct in holding the transaction as a business transaction, for which no reasons are forthcoming. Similarly, no reasons are forthcoming again for certifying as correct the findings of the Commissioner (Appeals) in paragraphs 18 to 21, which discuss about the amounts which are eligible for deduction.

3. The Tribunal being the final fact-finding authority was expected to apply its mind to the contentions and issues and give a separate finding on each issue. It is true that the order of the Tribunal is a confirming order. But, that would not absolve the Tribunal from independently examining the issues and then discussing the same. We, therefore, set aside the order and direct the Tribunal to decide it afresh after giving opportunity to the assessee.

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