

P.C. Thomas Vs. Assistant Commissioner of Income Tax and anr.

P.C. Thomas Vs. Assistant Commissioner of Income Tax and anr.

SooperKanoon Citation : sooperkanoon.com/849063

Court : Kerala

Decided On : Nov-13-2009

Reported in : (2010)231CTR(Ker)306

Judge : C.N. Ramachandran Nair and; V.K. Mohanan, JJ.

Acts : [Income Tax Act, 1961](#) - Section 80O; ;Patents Act; ;Trade Marks Act; ;Designs Act

Appeal No. : I.T. Appeal Nos. 1602, 1654, 1655 and 1658 of 2009

Appellant : P.C. Thomas

Respondent : Assistant Commissioner of Income Tax and anr.

Advocate for Def. : P.K.R. Menon and; Jose Joseph, Adv.

Advocate for Pet/Ap. : V.V. Asokan and; K.I. Mayankutty Mather, Adv.

Judgement :

C.N. Ramachandran Nair, J.

1. Heard Sri V.V. Asokan, counsel appearing for the appellant and the standing counsel appearing for the respondent.

2. The appellant is a reputed professor engaged in coaching students mainly for medical and engineering entrance examinations. Along with training students

locally in the State, he has developed educational material in the form of 'CDs' and in book form which are exported to students abroad. The appellant claimed benefit of deduction under Section 80O of the IT Act, 1961 (for short 'the Act'). However, the ITO disallowed the claim for the reason that the deduction under Section 80O of the Act is admissible only in respect of income received from foreign enterprises in consideration of use outside India of any patent, invention, design, registered trade mark and the consideration here is not for any such use. The disallowance is confirmed in two level appeals and it is against the order of the Tribunal, the appellant has approached this Court with these connected appeals for the years 1998-99 to 2001-02.

3. Counsel for the appellant has relied on the dictionary meaning of design and submits that the educational material prepared by the appellant answers the description of design. However, the standing counsel contended that the appellant only converts the text books and other educational materials into more concise form for better and easy understanding by the students.

4. After hearing both sides and after going through the orders of the Tribunal, we are unable to accept the contention of the appellant because in our view, the items covered under Section 80-O of the Act are generally items falling under the group 'intellectual property rights' which are patents, trade marks, designs etc. covered by the Patents Act, Trade Marks Act, Designs Act etc. All what the appellant does is to convert the extensive educational materials in concise form for easy understanding by the students. No new invention or design is made by the appellant in respect of the educational materials. We therefore do not find any ground to interfere with the order of the Tribunal and consequently, the appeals are dismissed.