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IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 460 OF 2008

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Judgment delivered on: 14.09.2010

THE COMMISSIONER OF INCOME TAX

. . . APPLICANT

Through :

Ms. Rashmi Chopra,
Advocate

VERSUS

YAMAHA MOTOR INDIA P. LTD.

. . . RESPONDENT

Through:

Mr. Vijay Nair, Advocate

CORAM :-

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MS. JUSTICE REVA KHETRAPAL

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J. (oral)

1. The only issue involved in this appeal relates to disallowing the amount of ₹ 22,47,565/- out of total expenditure claimed by the assessee on account of travel and conveyance. During the assessment year in question i.e. 1999-2000, the assessee had claimed travel and conveyance expenses. The Assessing Officer found that a sum of ₹ 22,47,565/- was spent for visits by Sh. Nikhil Nanda, K.Minami and Sh. Vimal Langer to Malasiya and U.K. The Assessing Officer in the assessment year observed that the assessee could not establish that these expenses were incurred for business purposes. He was of the opinion that the aforesaid visits were personal travel of these persons and, therefore, disallowed the



“During the course of assessment proceedings, it was observed that the assessee had debited the P& L account with ` 6.346 crores on account of Traveling and conveyance expenses. The AR was asked to file the details of the foreign traveling which were duly furnished. From the detail furnished, it was observed that while the Company has a tie up with Japan and has markets in Nepal and Bangladesh, a substantial part of the traveling expenses was on account of personal travel expenditure of Shri Nikhil Nanda to Malaysia and U.K. Since the company has no business link up with the two countries, the A.R. was given a show cause as to why the visits of Shri Nanda may not be treated as being for purposes other than business. The AR could only reply that it was for Official purpose. Since no other evidence was furnished to substantiate the claim despite giving ample opportunity to the AR, it is being held that these visits were held primarily for personal purpose and had no bearing with the business of the assessee company. Thus an addition of ₹ 19,52,891/- is made to the income of this assessee on this account.

In the line with the above, I also disallow the travel expenses of Shri K. Minami to U.K. of ₹ 1,91,907/- and that of Shri Vimal Langer to Philippines ₹ 1,02,767/-. Hence an addition of ₹ 2,94,674/- is made to the income of the assessee o this account.”

2. The CIT (Appeal) concurred with the aforesaid view of the Assessing Officer. We may note that the assessee had submitted that these trips to Malaysia and U.K. were undertaken for meeting with the representative of Yamaha Motor Co. Ltd. Japan and its affiliated companies. The purpose of the meetings were to understand the various standards 9in respect of quality development, product development, indigenization of parts, pricing, market understanding etc) which are required to be followed by all group companies of Yamaha Motor Co. Ltd. Japan. The CIT (Appeal), however, was not convinced with the explanation of the assessee



“It is mentioned in the assessment order that during the course of assessment proceedings, the Assessing Officer has observed that the Assessing Officer has observed that the assessee had debited the P&L account with ` 6,346 crores on account of Traveling and Conveyance expenses. From the details filed the AO also observed that while the company has a tie up with Japan and has markets in Nepal and Bangladesh, a substantial part of the traveling expenses was on account of personal travel expenditure of Shri Nikhil Nanda to Malaysia and UK. Since the company has no business link with the two countries, the AR was given a show cause as to why the visits of Shri Nanda may not be treated as being for the purposes other than business. The AR could only reply that it was for official purpose and no other evidence was furnished to substantiate the claim. The AO also disallowed the travel expenses of Shri K. Minami to UK of ` 19,1907/- and that of Shri Vimal Langer to Philippines of ` 102767/- and made a total addition of ` 294674/-.”

3. Identical contention was raised by the assessee before the Income Tax Appellate Tribunal as well. The Tribunal has accepted the version of the assessee as is clear from the following discussion:-

“We have heard the rival submissions and also perused the material available on record. Admittedly traveling was done by the directors who were employees of the company and no element of personal nature could be attributed in case of expenses incurred by the employees of the company. The assessee’s case is covered by the decision relied upon above. We, therefore, delete the disallowance made on this account.”

4. However, the portion extracted above is the only discussion on this aspect. It is clear from the above that no reasons are given by the Tribunal in support of its opinion. The findings arrived at by the Assessing Officer as well as CIT (Appeal) are not even discussed and no reasons are given to discard those findings. The impression



Tribunal should have discussed the matter at length if it was accepting the version of the assessee by stating the reasons and on what basis it held the aforesaid view, more particularly, when the orders of the Assessing Officer as well as CIT (A) disclosed detailed reasons rejecting same very version .

5. We, thus, set aside the order of the Tribunal and remit the case back to the Tribunal for hearing the matter afresh on this aspect and take decision on merits by giving cogent and sufficient reasons.

**(A.K. SIKRI)
JUDGE**

**(REVA KHETRAPAL)
JUDGE**

SEPTEMBER 14, 2010.
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