



#R-6, 7 & 8

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

R-6

+

ITA 895/2005

COMMISSIONER OF INCOME TAX DEL Appellant

Through: Mr. Zoheb Hossain, Sr. Standing
Counsel with Mr. P. Semwal, Advocate

versus

THAI AIRWAYS INTERNATIONAL PUBL Respondent

Through: None.

AND

R-7

+

ITA 901/2005

COMMISSIONER OF INCOME TAX D Appellant

Through: Mr. Zoheb Hossain, Sr. Standing
Counsel with Mr. P. Semwal, Advocate

versus

THAI AIRWAYS INTERNATIONAL PUB Respondent

Through: None.

WITH

R-8

+

ITA 917/2005

COMMISSIONER OF INCOME TAX, D Appellant

Through: Mr. Zoheb Hossain, Sr. Standing
Counsel with Mr. P. Semwal, Advocate

versus

THAI AIRWAYS INTERNATIONAL PUB Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

%

29.06.2020



The present matters have been heard by way of video conferencing.

Learned counsel for the appellant has handed over a letter dated 26th June, 2020 written to him by Deputy Commissioner of Income Tax, Circle 76(1), New Delhi. The said letter reads as under:-

“Kindly refer to your e-mail letter informing about the additions made by the assessing officer in the above captioned cases which are below Rs. 1,00,00,000/- of tax effect with a request to verify the following:

| <i>ITA No.</i> | <i>A Y</i> | <i>Tax Effect/ Additions made by the AO</i> |
|---|-----------------------|--|
| <i>ITA 895/2005 @ Pg. 17 of the Appeal ITA 917/2005 (Cross Appeals) @Pg. 27 of the Appeal</i> | <i>1993- 1994</i> | <i>Addition made by the AO : Rs. 52,89,366/-</i> |
| <i>ITA 901/2005 @ Pg. 15 of the Appeal</i> | <i>1994- 1995</i> | <i>Addition made by the AO : Rs. 10,14,366/-</i> |

2. For the F.Y. 1992-93, order u/s 201(1) was passed by the erstwhile ACIT Circle 22(1), Delhi making the following additions for short deduction of TDS on the following:

| <i>Particulars</i> | <i>Amount paid</i> | <i>Short Deduction</i> |
|---|--------------------|------------------------|
| <i>Refreshment Expresses</i> | <i>6,53,649</i> | <i>2,92,830</i> |
| <i>Shift Allowance</i> | <i>6,00,000</i> | <i>2,68,800</i> |
| <i>Transport expenditure</i> | <i>6,74,461</i> | <i>3,02,158</i> |
| <i>Laundry Expenses</i> | <i>2,40,000</i> | <i>1,07,520</i> |
| <i>Bonus</i> | <i>2,38,000</i> | <i>1,06,624</i> |
| <i>Estimated expenditure in relation</i> | | |
| <i>To 5 expatriates for want of full Details</i> | <i>60,00,000</i> | <i>26,88,000</i> |
| <i>Estimated expenditure in relation to 12 employees for want of full details</i> | <i>30,00,000</i> | <i>13,44,000</i> |
| <i>Air Tickets</i> | <i>4,00,000</i> | <i><u>1,79,200</u></i> |
| | <i>TOTAL</i> | <i>52,89,132</i> |



3. Apart from above, addition u/s 201 (1A) to the tune of Rs. 11,90,060 was also made.

4. Hence, total addition for F.Y. 1992-93 comes to Rs. 64,79,192/- which is below the prescribed limit for filing appeal as per CBDT circular No. 17/2019 dated 08-08-2019. The matter has been examined and it is found the issue involved in the present appeal does not fall within any of the exceptions given in the Board's Circular No. 17/2019 dated 08-08-2019 read with circular no 3/2018 and its amendments dated 20/08/2018.

5. For the F.Y. 1993-94, following additions were made u/s 201(1) of the I.T. Act:

| <i>Particulars</i> | <i>Amount paid</i> | <i>Short Deduction</i> |
|------------------------------|--------------------|------------------------|
| <i>Refreshment Expresses</i> | <i>1027220</i> | <i>460195</i> |
| <i>Shift Charges</i> | <i>127671</i> | <i>57196</i> |
| <i>Transport Charges</i> | <i>1109320</i> | <i><u>496975</u></i> |
| | <i>Total</i> | <i>10,14,366</i> |

6. Further, additions u/s 201(1A) for F.Y. 1993-94 of Rs. 4,05,720/- was also made. Hence, total addition for F.Y. 1994-95 comes to Rs. 14,20,086/- which is below the prescribed limit for filing appeal as per CBDT circular No.17/2019 dated 08-08-2019. The matter has been examined and it is found the issue involved in the appeal does not fall within any of the exceptions given in the Board's Circular No. 17/2019 dated 08-08-2019 read with circular no 3/2018 and its amendments dated 20/08/2018.

Yours faithfully,

(Pradeep Shekhar)
Deputy Commissioner of Income Tax,
Circle-76(1), New Delhi"



Today also learned counsel for the appellant reiterates that in ITA 895/2005 and 917/2005, w.r.t. A.Y 1992-93, the total tax effect being Rs. 64,79,192/-, is below the prescribed limit for filing an appeal before High Court, as per CBDT circular No. 17/2019 dt. 08.08.2019. He also states that the aforesaid appeals do not fall within any of the exceptions given in CBDT Circular no. 17/2019 dt. 08.08.19 read with circular 03/2018 and its amendments dt. 20.08.2018.

Learned counsel for the appellant further states that in ITA 901/2005 w.r.t. A.Y 1995-96, the total tax effect being Rs. 14,20,086/-, is below the prescribed limit for filing an appeal before High Court, as per CBDT circular No. 17/2019 dt. 08.08.2019. He reiterates that the appeal does not fall within any of the exceptions given in CBDT Circular no. 17/2019 dt. 08.08.19 read with circular 03/2018 and its amendments dt. 20.08.2018.

Consequently, present appeals are dismissed on account of low tax effect.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

JUNE 29, 2020

rn