

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

ITA No. 134 of 2007
Date of decision 30.4.2007

The Commissioner of Income Tax, Faridabad

.. Appellant

Versus

M/s Economic Dev. And Associates

.. Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr. Yogesh Putney, Advocate for the appellant

M.M.Kumar, J.

In this appeal filed under Section 260 A of the Income Tax Act, 1961, the revenue has challenged the order dated 14.7.2006 passed by the Income Tax Appellate Tribunal, New Delhi Bench B New Delhi in ITA No. 258/Del.2002 for the assessment year 1997-98. It has been claimed that the following substantive question of law would arise for our determination:

“ Whether on the facts and in the circumstances of the case, the Hon'ble ITAT is right in upholding the order of Ld. CIT(A) in allowing exemption under section 10(6) (via) of the Income Tax Act, 1961 to a firm”

The assessee was engaged by the Asian Development Bank to carry out a study in India regarding the enterprises and institutions assisting micro enterprises in India. The assessee was to be paid remuneration of 7,000 US dollars and accordingly received a sum of Rs.3,88,716/- during the assessment year as part of remuneration from the bank. He claimed the same to be exempt under Section 10(6)(via) of the Act read with Article 56 of the Asian Development Bank Act, 1966 (for short 'the 1966 Act'). Accordingly, it was asserted that the salary and emoluments paid by the

bank to its Directors, Alternates, Officers or employees including experts performing missions for the Bank were not to be subjected to levy of tax. However, the Assessing Officer took the view that the amount received by the assessee from the Bank was neither salary nor emoluments and therefore was not covered by the provisions of Article 56(2) of the 1966 Act. On appeal, the Commissioner of Income Tax (Appeals) held that the receipts were of the nature of emoluments and directed the Assessing Officer to allow the claim for deduction. The revenue took the matter before the Tribunal which after hearing the parties, held as under:

“ A copy of the letter of appointment by ADB is placed at page 7 of the assessee's paper book. The agreement is also placed at page no. 8 to 12 of the assessee's paper book. Para 2 of the letter of appointment clearly states that the assessee is engaged as a domestic consultant on a lump sum task related remuneration of a sum of 7000 US dollars. Article 56(2) contemplates payments to experts performing missions for the bank. The payment in question would therefore clearly fall within the ambit of Article 56(2) of the ADB Act, 1966. We therefore hold that the assessee was entitled to claim deduction u/s 10 of the Act and the Commissioner of Income Tax (A) was justified in allowing the claim for the assessee. The order of the Commissioner of Income Tax (A) is therefore confirmed and the second ground of appeal of the Revenue also is dismissed.”

After hearing learned counsel, we find that on the plain language of Section 10(6)(via) of the Income Tax Act, 1961 the assessee is entitled to claim deduction as Section 10(6)(via) of the Act grants

exemption to the remuneration received as salary or as consultant to an institution or association or a body established or formed outside India solely for philanthropic purposes, for services rendered by him in India in connection with such purpose. It is not disputed before us that the services rendered by the assessee in the present case is covered under the provisions of Section 10(6)(via) of the Act. The view taken by the Tribunal is in conformity with the bare provisions of Section 10(6)(via) of the Act and therefore does not call for any interference nor it gives arise to any question of law. Accordingly, the appeal fails and the same is dismissed.

(M.M.Kumar)
Judge

(Rajesh Bindal)
Judge

30.4.2007
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