

(2010) 09 JH CK 0086

Jharkhand High Court

Case No: None

Commissioner of Income Tax

APPELLANT

Vs

Ashok Pandit

RESPONDENT

Date of Decision: Sept. 1, 2010

Hon'ble Judges: Sushil Harkauli, J; D.N. Patel, J

Bench: Division Bench

Final Decision: Allowed

Judgement

1. We have heard Learned Counsel for the appellant-department.
2. On the order-sheet there is an endorsement by the office dated 7th June, 2001, saying that notice has been duly served upon the sole respondent. No appearance has been put in from the side of the respondent.
3. The appellant has framed the following substantial question of law in this appeal:
Whether the I.T.A.T. Was justified in holding that the reimbursement of wages of Sweeper was not taxable as perquisite in the hands of the Assessee?
4. We have gone through the impugned order of the Tribunal dated 8th April, 1999, which is in respect of the assessment year 1993-94. For excluding the reimbursement, the Tribunal has relied upon a decision of the Andhra Pradesh High Court in the case of [Commissioner of Income Tax Vs. Vazir Sultan Tobacco Co. Ltd.,](#).
5. A perusal of that decision shows that while there was a question covering the issue, in the decision given by the Andhra Pradesh High Court, that question was not answered. The reliance of the Tribunal upon that decision, appears to be misplaced.
6. The Tribunal has thereafter relied upon a decision of the Tribunal itself dated 24th November, 1997 in ITA No. 188/Pat/1996 in the case of another assessee. It has been mentioned in the memo of appeal that the decision was also based upon the same decision of the Andhra Pradesh High Court, which, we have already held, is

not relevant on the question.

7. In the circumstances, the impugned order of the Tribunal dated 8th April, 1999 is set aside and the matter is remanded back to the Tribunal for decision afresh.

8. This appeal is accordingly, allowed.