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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 14th May, 2026

+ ITA 113/2006

M/S RAUNAQ INTERNATIONAL LTD.

.....Appellant

Through: Dr. Shashwat Bajpai & Mr. Mayank
Chaturvedi, Advocates.

versus

COMMISSIONER OF INCOME TAX I N

.....Respondent

Through: Mr. Vipul Agrawal SSC with Ms.
Sakshi Shairwal, Mr. Akshat Singh,
JSCs.

CORAM:

HON'BLE MR. JUSTICE DINESH MEHTA

HON'BLE MR. JUSTICE VINOD KUMAR

J U D G M E N T

DINESH MEHTA, J. (ORAL)

1. Mr. Shashwat Bajpai, learned counsel for the appellant, at the outset submitted that there is a typographical/inadvertent error in the question framed vide order dated 23.01.2006, regarding club charges, inasmuch as the same had already been allowed by the Income Tax Appellate Tribunal, Delhi Bench 'A', Delhi (*hereinafter referred to as 'Tribunal'*) vide its order dated 07.10.2005.

2. Adverting to the other part of the question, namely disallowance of 1/6th of telephone expenses and car expenses, he submitted that the Assessing Officer had made such addition for previous Assessment Years (AY 1995-96 to AY 1999-2000), whereas the appeals filed for all those years, the Commissioner of Income Tax (Appeals) had set aside such



disallowances and such finding had been affirmed by the Income Tax Appellate Tribunal.

3. He submitted that the Tribunal was required to maintain consistency, more particularly, when there was no factual difference. In this regard, he invited Court's attention towards order dated 25.06.2004 passed by the Tribunal for AY 1998-99 and order dated 24.01.2005 for the AY 1996-97.

4. Learned counsel for the appellant took the Court through the impugned order of the Tribunal, more particularly, paragraph nos. 4 & 5 and submitted that the Tribunal has relied upon judgment of Hon'ble the Supreme Court rendered in the case of *Standard Chartered Bank and Ors. v. Directorate of Enforcement and Ors.* reported in [2005] 275 ITR 81 (SC), and argued that the same is in entirely different context, wherein Hon'ble the Supreme Court has observed that the company is a separate individual person.

5. Learned counsel argued that in any case, the Assessing Officer was not justified in disallowing 1/6th of the total expenses, which the company had incurred on telephone and towards car expenses.

6. Mr. Vipul Agarwal, learned Senior Standing Counsel for the Department, on the other hand submitted that the Tribunal's decision is based on finding of fact and notwithstanding, a question has been framed and the same need not be answered and the appeal should be dismissed as the same involves a finding of fact.

7. He argued that the Assessing Officer in his assessment order dated 15.06.2001 has given cogent finding and reasoning and he has only



disallowed 1/6th of the contentious expenses, treating them to be of a personal nature, as the assessee had neither maintained log book in respect of car expenses nor had it given complete details of the telephone expenses.

8. Heard learned counsel for the parties.

9. It is not in dispute that the addition of this nature made in the assessment orders of AY 1995-96 to AY 1999-2000, had been set aside by the Commissioner of Income Tax (Appeals) and orders of the first appellate authorities had been affirmed by the Tribunal.

10. Such being the position, according to us, the Tribunal ought to have maintained consistency, unless there was a striking change in the facts. On perusal of the impugned order dated 07.10.2005 passed by the Tribunal, we find that the only new thing which had come to the notice or knowledge of the Tribunal was, the judgement of Hon'ble the Supreme Court in the case of **Standard Chartered Bank** (*supra*).

11. According to us, nothing can be deduced, so far as the moot question of disallowance of the expenses in question are concerned.

12. It is true that a company is a separate legal person, but simply because a company can be said or considered to be a person, it does not necessarily mean that its expenses are required to be disallowed for being personal in nature.

13. An Assessing Officer can be justified in disallowing a part of the expenditure treating them to be of personal nature in the case of an individual assessee, because when an individual uses his car or telephone, there is found to be an element of personal use but in case of a company,



despite being a person, there cannot be any personal expenses of a company.

14. Even if expenses are borne by the company are reimbursed to the employees or even Directors, it will be treated to be a part of the complete package given to those employees, as a need of company's business. Therefore, such expenses duly approved by the Competent Authority are required to be allowed *in toto*. Because, until the concept of fringe benefits was introduced, every penny spent by a company, or amount spent by the employees (subject ofcourse to the limits prescribed in the Companies Act or other laws) was allowable.

15. The Tribunal has, therefore, erred, in understanding the true import of the concept of a company being a person. Disallowance can be made only in the event when there is a finding that the amount spent was of personal nature, having no nexus with company's business.

16. So far as the findings recorded by the Assessing Officer are concerned, the same is cursory. In case, a company's car is provided to the Directors or the employees, the company is not required to maintain a log book nor is the Assessing Officer supposed to go into the log book and dissect, which journey was of employee's personal nature and which was for the affairs of the company.

17. If the company authorizes the employees to use the car for personal use, then it is a facility provided to such employee and all such expenses are treated as CTC (Cost to Company).

18. Similar is the position, when it comes to telephone expenses. We are, therefore, of the considered opinion that the Tribunal has erred in upholding



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the disallowance of 1/6th of the telephone expenses and car expenses.

19. The appeal is, therefore, allowed. Impugned order passed by the Tribunal dated 07.10.2005 is set aside. The question is answered in favour of the appellant-assessee.

20. Consequence to follow.

(DINESH MEHTA)
JUDGE

(VINOD KUMAR)
JUDGE

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