IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 7169 OF 2016
(Arising out of SLP(C) No.36383 of 2014)

COMMISSIONER OF INCOME TAX-II ...APPELLANT(S)

VERSUS

PREETAM SINGH LUTHRA ...RESPONDENT(S)

O R D E R

1. Leave granted.

2. The challenge in this appeal by the revenue is against the Order of the High Court of Madhya Pradesh passed in I.T.A. No.59 of 2013 by which the High Court has upheld the orders of the Income Tax Appellate Tribunal and the learned Commissioner of Income Tax (Appeals) deleting the addition of the licence fee paid by the assessee following the forfeiture of his licence. The assessment year is of 2006-2007 and the reasoning of the Commissioner of Income Tax as upheld by the Tribunal and the High Court appears to be that since forfeiture of the

amount of the licence fee has taken place the said amount has to be set off as loss for the assessment year in question.

3. In taking the aforesaid view, the High Court had relied upon the judgment passed by the Madras High Court in "The Commissioner of Income Tax vs. Chensing Ventures" reported in (2007) 291 ITR 258(Mad).

4. If the licence fee stands forfeited, the licencee/assessee may be entitled to claim the forfeited amount as a business loss. However in the present case, from the grounds urged before the High Court which facts have not been controverted by the assessee, it appears that the respondent had transferred the licence on 25.06.2005 to one Shankarlal Patidar and the forfeiture of the said licence took thereafter on 01.08.2005. If that be so, the loss, if any, on account of forfeiture was sustained not by the respondent-assessee but by the tranferee-Shankarlal Patidar.

5. In view of the above and as the learned Tribunal and the High Court have overlooked the aforesaid vital fact, we are of the view that the orders passed by the learned Tribunal and the High Court will require to be reversed by us. Consequently, we set aside the order of the High Court affirming the order of the learned Tribunal and the learned Commissioner of Income Tax (Appeals) passed in favour of the assessee and affirm the order of the assessing officer disallowing the aforesaid claims of the assessee.

6. The appeal consequently is allowed in the above terms.

....................,J.
(RANJAN GOGOI)

....................,J.
(PRAFULLA C. PANT)

NEW DELHI
JULY 29, 2016

ITEM NO.45 COURT NO.6 SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s).36383/2014

(Arising out of impugned final judgment and order dated 08/10/2013 in ITA No. 59/2013 passed by the High Court Of M.P. at Indore)

C.I.T-II Petitioner(s)

VERSUS

PREETAM SINGH LUTHRA Respondent(s)

(with appln. (s) for exemption from filing O.T., permission to file additional documents and office report)

Date : 29/07/2016 This petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. N.K. Kaul, ASG
Mr. Sanyat Lodha, Adv.
Ms. Sadhna Sandhu,Adv.
Mrs. Anil Katiyar,Adv.

For Respondent(s) Ms. Shalu Sharma,Adv.

UPON hearing the counsel the Court made the following

O R D E R

Permission to file additional documents is granted.

Application for exemption from filing official translation is allowed.

Leave granted.

The appeal is allowed in terms of the signed order.

(Neetu Khajuria) (Asha Soni)
Court Master Court Master

(Signed order is placed on the file.)