IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 15TH JANUARY 2008 / 25TH POUSHA 1929

ITR.No. 58 of 2000()

AGAINST THE ORDER DATED / / IN ITA.245/COH/92 IN
RA.258/COCH//1997 of I.T.A.TRIBUNAL,COCHIN BENCH
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APPLICANT:

M/S.SEASON RUBBER LTD.,
KANJIRAPPALLY.

BY ADV. SRI.JOHN RAMESH K.I.JOHN

RESPONDENTS:

COMMISSIONER OF INCOME - TAX,
TRIVANDRUM

BY ADV. SRI.P.K.R.MENON(SR.),SR.COUNSEL FOR IT
SRI.GEORGE K. GEORGE, SC FOR IT

THIS TAX REFERENCE HAVING COME UP FOR ADMISSION
ON 15/01/2008, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

C.N. Ramachandran Nair &
T.R. Ramachandran Nair, JJ.

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I.T.R.NO.58 of 2000

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Dated this the 15th day of January, 2008.

<u>JUDGMENT</u>

<u>C.N. Ramachandran Nair, J.</u>

Contribution made by the assessee totaling Rs.16,500/- to a school and to a hospital development committee were claimed for benefit under Section 80G of the Income Tax Act. However, since the recipients did not have registration and could not issue certificate under Section 80G of the Act, the assessee shifted the stand and claimed the contributions as business expenditure eligible for deduction under Section 37(1) of the Act. The Tribunal declined the claim, against which this reference is sought by the assessee.

We have heard learned counsel for the applicant and learned Standing Counsel for the respondent. We do not think that the assessee is entitled to the claim under Section 37(1) of the Act, because the assessee's business prospects are not advanced by making these contributions. Even though learned counsel contended that the assessee's employees are getting treatment from the hospital and the employees' children are students in the school which got the benefit, we find the benefit, if at all, is quite remote and not to any person. We, therefore, answer the question referred, against the assessee and in favour of the department.

(C.N. Ramachandran Nair, Judge.)

(T.R. Ramachandran Nair, Judge.)

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C.N. Ramachandran Nair & &
T.R. Ramachandran Nair, JJ.

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I.T.R. No.58 of 2000
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JUDGMENT

15th January, 2008.