



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.511 OF 2001

The Commissioner of Income Tax.
Vs.

..Appellant.

Mr. H.A. Braam.

..Respondent.

Mr.P.S.Sahadevan

for

the

Appellant.

CORAM : F.I. REBELLO & R.S. MOHITE, JJ.
DATED : 8TH JANUARY,2008.

PC :

1. The Appellate Tribunal considering the various provisions has recorded a finding of fact that the employer has not to incur any expenditure because the employer himself was benefited by Taj Intercontinental Hotel who allowed two rooms free of costs during the tenure of the contract. The Tribunal then held that when a benefit derived by the employer is passed on to the employee, the cost to the employer is the benefit derived by the employee which in the instant case is NIL and therefore, including any element of perquisite on account of rent is unwarranted in the case. It is clear therefore, that the finding was recorded on the facts of the case and therefore, question No.1 in Paragraph-10 as framed would not arise.

2. In so far as Question No.2 is concerned, the issue has been considered by the Tribunal by placing reliance on the Judgment of the Supreme Court in Emll Webber Vs.



CIT reported in (1993) 200 ITR 483 approving the
Judgment of this court reported in 114 ITR 515.
Considering the above facts the second question would
also not arise. Consequently the appeal stands
dismissed.

(R.S. MOHITE, J.)

(F.I. REBELLO, J.)