

(2008) 05 P&H CK 0063

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Commissioner of Income Tax

APPELLANT

Vs

Pml Industries Ltd.

RESPONDENT

Date of Decision: May 12, 2008

Acts Referred:

- Income Tax Act, 1961 - Section 143, 260A

Citation: (2008) 173 TAXMAN 183

Hon'ble Judges: Rakesh Kumar Garg, J; Rajive Bhalla, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

Rakesh Kumar Garg, J.

The revenue has filed the present appeal u/s 260A of the Income Tax Act, 1961 (hereinafter referred to as the "Act") against the order dated 20-7-2007 passed by the Tribunal, Chandigarh Bench-A in ITA No. 446/Chd/2005 and has sought to raise the following substantial questions of law:

1. Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was correct in holding that the expenditure of Rs. 8,86,771 incurred by the assessee has to be treated as revenue expenditure as no capital asset was acquired by the assessee?
2. Whether on the facts and circumstances of the case and in law, the Hon'ble Tribunal was correct in holding that the expenditure of Rs. 8,86,771 incurred by the assessee was revenue expenditure?
2. The assessee has filed the return declaring a loss of Rs. 12,38,06,711 on 30-11-1998. This return was accompanied by Profit and Loss account and balance sheet and tax audit report. The return was processed as such u/s 143(1)(a) on 30-3-1999. Thereafter, the assessment u/s 143(3) of the Act was completed on

25-1-2001 and apart from other additions, an amount of Rs. 8,86,771 claimed as revenue expenditure by the assessee spent on foreign travelling expenses was disallowed and added in the income of the assessee.

3. Aggrieved against this order, the assessee filed an appeal before the Commissioner (Appeals) which was partly allowed vide his order dated 18-3-2005. However, the addition made by the assessing officer of Rs. 8,86,771 on account of foreign travelling expenses spent by the appellant was held to be a capital expenditure and the order of the assessing officer was upheld in this regard.

4. Still aggrieved against the order of the Commissioner (Appeal), the assessee further filed an appeal before the Tribunal, Chandigarh Bench, Chandigarh who vide the impugned order held that no capital asset was acquired by the assessee. However, the expenditure was incurred wholly and solely for the purpose of business and the said expenditure was allowable as a deduction. Thus, the appeal of the assessee was partly allowed.

5. Aggrieved against the said order of the Tribunal, the revenue is in appeal before us.

6. We have heard Ms. Urvashi Dhugga, learned Counsel for the revenue and perused the record.

7. We find no merit in the appeal as we are satisfied that no question of law much less a substantial question of law arises for our determination in the present appeal. The Tribunal has given a pure finding of fact that the assessee incurred an expenditure of Rs. 8,86,771 for the purpose of business, therefore, the same was allowable as an expenditure of revenue nature. The relevant portion of the order of the Tribunal is reproduced:

On careful consideration of the rival contentions we are of the considered view that the disallowance is not justified. The assessee had incurred the expenditure for the purpose of business. It is not disputed that the assessee has not acquired any capital asset. Therefore, the issue as to whether the expenditure incurred in connection with the acquisition of a capital asset was required to be capitalized or not, does not arise in this case insofar as no capital asset has been acquired. The expenditure in dispute has been incurred for the purpose of business and therefore, the same was allowable as an expenditure of revenue nature. We accordingly delete the addition of Rs. 8,86,771.

8. From the perusal of the above finding recorded by the Tribunal, it is crystal clear that it is not disputed by the revenue that the assessee has not acquired any capital asset and has incurred an expenditure for the purpose of business. The issue as to whether the expenditure incurred in connection with the acquisition of capital asset is required to be capitalized or not, does not arise in the present case, insofar as no capital asset had been acquired. However, the expenditure in dispute is allowable as

expenditure of revenue nature. Thus, we find no ground to interfere in the findings of fact recorded by the Tribunal. No substantial question of law arises in this appeal for our determination. Accordingly, the appeal is dismissed.