

Commissioner of Income Tax, Jalandhar Vs Kakkar Complex Steels (P.) Ltd.

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 6, 2006

Acts Referred: Income Tax Act, 1961 &" Section 40A(8)

Hon'ble Judges: Rajesh Bindal, J; A.K. Goel, J

Bench: Division Bench

Advocate: N.L. Sharda, for the Appellant; Sanjay Bansal, for the Respondent

Judgement

1. Following question of law has been referred for the opinion of this Court by the income tax Appellate Tribunal, Amritsar Bench, Amritsar (for

short, "the Tribunal"), arising out of its order dated 10-9-1991 in IT Appeal No. 179 (ASR) of 1987, for the assessment year 1983-84:-

Whether on the facts and in the circumstances of the case, the Tribunal was justified in deleting the addition of Rs. 32,045 made by holding that the

(amount standing as credit in the current account of Electors not a deposit within meaning of section 40A(8)?

The Assessing Officer disallowed interest paid by the assessee to its directors to the extent of 15% u/s 40A(8) of the income tax Act, 1961 (for

short, "the Act"), which was upheld by the CIT(A).

2. The Tribunal deleted the addition following judgment of the Madhya Pradesh High Court in Commissioner of Income Tax Vs. Kalani Asbestos

(P.) Ltd., holding that the amount received from directors and lying in current account could not be treated as deposit.

3. We have heard learned, counsel for the parties.

4. Learned counsel for the revenue has not been able to show any error in the view taken by the Tribunal. On the other hand, learned counsel the

assessee relies upon judgment of the Madras High Court in Commissioner of Income Tax Vs. Dadha Plantations (P.) Ltd., and submits that the

view of the Tribunal is in accordance with the said judgment.

5. Having regard to the decision of the Madhya Pradesh High Court in Kalani Asbestos"s (P.) Ltd. case (supra), which has been followed by the

Tribunal and judgment of the Madras High Court in Dadha Plantations"s (P.) Ltd. case (supra) and there being no contrary view cited by the

learned counsel the revenue, we are of the view that disallowance specified u/s 40A(8) of the Act was applicable in respect of deposits and not to

the amount lying to the current account of directors in the books of account of the assessee.

6. In view of the above, the question referred is answered against the revenue and in favour of the assessee. Reference is disposed of accordingly.