

(2001) 02 P&H CK 0156

High Court Of Punjab And Haryana At Chandigarh

Case No: Income Tax C. No. 104 of 1999

Commissioner of Income Tax

APPELLANT

Vs

Cebon India Ltd.

RESPONDENT

Date of Decision: Feb. 12, 2001

Acts Referred:

- Income Tax Act, 1961 - Section 143, 143(1), 143(2), 256, 256(2)

Citation: (2001) 252 ITR 523

Hon'ble Judges: Nirmal Singh, J; G.S. Singhvi, J

Bench: Division Bench

Advocate: R.P. Sawhney and Rajesh Bindal, for the Appellant; None, for the Respondent

Judgement

G.S. Singhvi J.

This is a petition u/s 256(2) of the Income Tax Act, 1961 (for short "the Act"), for directing the Income Tax Appellate Tribunal, Delhi Bench "D", New Delhi (for short "the Tribunal"), to draw up a statement of the case and refer the following question of law to this court :

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in disallowing the adjustments of interest payable to the IFCI and sales tax penalty made by the Assessing Officer u/s 43B of the Income Tax Act, 1961, while processing the case u/s 143(l)(a) as not being *prima facie* adjustment ?"

2. A perusal of the record shows that the assessee filed return for the year 1995-96 on November 30, 1995, declaring nil income. While processing the return u/s 143(l)(a) of the Act, the Assessing Officer made addition of Rs. 22,04,344 on account of interest paid to the IFCI and Rs. 13,88,741 on account of sales tax, etc. Later on, he issued notice u/s 143(2) and completed the assessment at an income of Rs. 68,83,890. The first appeal filed by the assessee against the order of the Assessing Officer was dismissed by the Commissioner of Income Tax (Appeals), Faridabad (for

short "the CIT (Appeals)", but the second appeal filed by it was allowed by the Tribunal which held that the adjustments made by the Assessing Officer cannot be termed as *prime facie* adjustment within the meaning of Section 143(l)(a) of the Act. Reference application filed by the Revenue was dismissed by the Tribunal on the ground that no debatable issue arose out of the order passed by it.

3. We have heard Shri R.P. Sawhney, senior advocate, for the petitioner. In our opinion, the question sought by the Revenue merits consideration by this court because it involves interpretation of the ambit and scope of Section 143(l)(a) of the Act.

4. Hence, we allow the petition and direct the Tribunal to draw up a statement of the case and refer the aforementioned question to this court.