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(2002) 253 ITR 66

High Court Of Punjab And Haryana At Chandigarh

Case No: Income-tax Reference No. 26 of 1986

Highway Cycle Industries Ltd.	APPELLANT
Vs	
Commissioner of Income Tax	RESPONDENT

Date of Decision: July 12, 2001

Acts Referred:
Income Tax Act, 1961 â€" Section 37#Payment of Bonus Act, 1965 â€" Section 15, 15(1)

Citation: (2002) 253 ITR 66

Hon'ble Judges: Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench: Division Bench

Advocate: A.K. Mittal, for the Appellant; R.P. Sawhney and Rajesh Bindal, for the Respondent

Judgement

Jawahar Lal Gupta, J.
This is a reference by the Income Tax Appellate Tribunal at the instance of the assessee. The following two

questions have " been referred to this court for opinion :

(1) Whether, on the facts and circumstances of the case, the Tribunal was right in law in confirming the disallowance of the assessee''s claim of Rs.

25,782 as surtax liability while computing its taxable income for the assessment year 1977-78 ?

(2) Whether, on the facts and circumstances of the case, the Tribunal was justified in holding that ''set on of bonus'' as per Section 15(1) of the

Payment of Bonus Act, 1965, at Rs. 2,56,042 is not allowable as business expenditure in computing the assessee''s income for the assessment

year 1977-78 ?

2. The assessee is engaged in the manufacture and sale of bicycle freewheels. In its Income Tax return for the assessment year 1977-78, the

assessee claimed deduction of Rs. 25,782 on account of surtax liability under the provisions of the Companies (Profits) Surtax Act, 1964. It also

claimed a deduction of Rs. 2,56,042 on account of ""allocable surplus set on for bonus liability under the Payment of Bonus Act"". This claim was

disallowed. Having lost up to the Tribunal, the assessee has sought the reference and has now come to this court.

3. Mr. Ajay Mittal, learned counsel for the assessee, contends that a tax paid by the assessee is not income but is a deductible part of the

expenditure. He further submits that the action of the Revenue in disallowing the amount kept for set on of bonus u/s 15(1) of the Payment of

Bonus Act, 1965, could not have been denied as a permissible deduction.

4. Mr. Sawhney, on the other hand, has pointed out that both the questions are concluded against the assessee by pronouncements of different

courts in so far as surtax is concerned.

5. With regard to the first question, it has been pointed out that the matter is concluded between the parties by the decision of this court. Reference

has been made to Highway Cycle Industries Ltd. Vs. Commissioner of Income Tax, . It has been further pointed out that another Division Bench

has taken a similar view in H.M.M. Limited Vs. Commissioner of Income Tax, . Similarly, with regard to the deduction on account of the bonus as

contemplated u/s 15(1) of the Payment of Bonus Act, 1965, it has been pointed out that the Madhya Pradesh High Court has taken a view against

the assessee in Malwa Vanaspati and Chemical Co. Ltd. Vs. Commissioner of Income Tax, . Even the Andhra Pradesh High Court has taken a

similar view in Rayalaseema Mills Limited Vs. Commissioner of Income Tax, Andhra Pradesh-I, .

6. On a consideration of the matter, we find that the decisions conclude the answer to the questions against the assessee. Respectfully following

these decisions, we answer both the questions against the assessee and in favour of the Revenue.

7. The reference is disposed of accordingly. No costs.