
Sethu Film Distributors Vs Commissioner of Income Tax

Tax Case No. 1280 of 1986 (Reference No. 828 of 1986)

Court: Madras High Court

Date of Decision: Jan. 17, 2001

Acts Referred:

Income Tax Rules, 1962 " Rule 9A, 9B

Citation: (2002) 172 CTR 449 : (2001) 252 ITR 307 : (2002) 125 TAXMAN 141

Hon'ble Judges: R. Jayasimha Babu, J; K. Gnanaprakasam, J

Bench: Division Bench

Advocate: V. Ramachandran, for K. Mani and M. Krishnakumar, for the Appellant; T. Ravikumar, for the Respondent

Judgement

R. Jayasimha Babu, J.

The question referred is regarding the valuation of the publicity materials for the pictures for which the value of the

closing stock was taken as "nil". The assessment year is 1979-80. The assessee had been admittedly valuing the closing stock of the publicity

material for all the assessment years prior to that assessment year. It was the case of the assessee that having applied its mind to the rules,

according to him, the rules, viz., Rules 9A and 9B of the Income Tax Rules, enabled him to treat the value of the publicity material also as "nil"

when the value of the film for which the material had been prepared is taken as "nil" by reason of that film having been exhibited for a period of 90

days or more in the accounting year.

2. The assessee's contention did not find favour with the Assessing Officer, but did with the Commissioner whose ruling has been reversed by the

Tribunal. The assessee is before us and contends that the Commissioner's order should be restored.

3. The fact that the value of the closing stock of the film is taken as "nil" is only by reason of the rule permitting the valuation to be made in that

manner when the film had been exhibited for 90 days or more in the accounting year. That rule cannot be stretched to the publicity materials as well

when the publicity materials do not find any mention in the rule and the publicity materials admittedly do have a value as the same material is

capable of, and is in fact being used for the publicity of the film in the subsequent years. The assessee himself had treated this business as separate

in so far as it related to publicity materials. He was registered as a dealer under the Sales Tax Act in respect thereof, had maintained separate

accounts in relation thereto, and had for the purpose of Income Tax valued the closing stock in earlier years. The value of a thing does not get

erased by reason of the value of the associated thing being granted exemption, or its value taken as "nil" by reason of a provision contained in the

statutory rule. It cannot be doubted that even films which have been exhibited for 90 days or more still have value, and in fact are being exploited in

later years. Many old films, as many as 50 years old, still find an audience willing to pay for seeing the same. It is only for the purpose of the

Income Tax Act that by reason of the rule specifically providing therefore the value is taken as "nil" in order to provide an incentive to those

associated with the film industry having regard to the risks that are involved in that line of business. The extent to which the incentives should go is a

matter entirely for Parliament. The fact that a concession is given in respect of films does not imply that the same concession has also been given to

publicity materials even when the rules do not so provide.

4. The Tribunal was right in the view that it took. The question brought before us at the instance of the assessee is answered against the assessee

and in favour of the Revenue.