
(2006) 07 AHC CK 0063

Allahabad High Court

Case No: IT Appeal No. 14 of 1999

Commissioner of
Income Tax, Allahabad

APPELLANT

Vs

Allahabad Milling Co.
(P.) Ltd.

RESPONDENT

Date of Decision: July 27, 2006

Hon'ble Judges: Vikram Nath, J; R.K. Agrawal, J

Bench: Division Bench

Advocate: R.K. Upadhyay, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. We have heard Shri R.K. Upadhyay, learned Standing Counsel for the revenue and have perused the assessment order, the first appellate order passed by the Commissioner of Income Tax (Appeal) and the order of the Tribunal. From the perusal of the same, we find that during the year in question, i.e., 1988-89, the respondent assessee had approached the Bank authorities for increase in the existing-cash limit from Rs. 30.15 lacks to Rs. 50 lacks, which proposal remain under consideration. However, in the meantime for business necessity, the assessee borrowed money from its share holders and directors on which it had paid interest at the rate of 21% per annum. The Tribunal recorded a finding that the department has failed to prove against the assessee any ulterior motive in making payment of interest at the enhanced rate of 21% per annum as compared to 18% per annum paid in the previous year. The Tribunal has also come to the conclusion that the effective rate of interest payable by the respondent assessee to the Bank would come to about 21.5% per annum, and therefore, the payment of interest at the rate of 21% cannot be said to be unjustified.

2. The findings recorded by the Tribunal are based on appreciation of Tribunal are based on appreciation of evidence and material on record. This is a pure finding of fact. The

order of the Tribunal does not give rise to any question of law much less substantial question of law.

The appeal is, therefore, dismissed.