
Ramchand and Sons Sugar Mills (P.) Ltd. Vs Commissioner of Income Tax

Income-tax Reference No. 220 of 1966

Court: Allahabad High Court

Date of Decision: March 15, 1971

Acts Referred:

Income Tax Act, 1922 " Section 66(2)

Citation: (1972) 86 ITR 645

Hon'ble Judges: R.S. Pathak, J; H.N. Seth, J

Bench: Division Bench

Advocate: O.P. Agarwal, for the Appellant; B.L. Gupta and R.R. Misra, for the Respondent

Judgement

Pathak, J.

The Income Tax Appellate Tribunal has referred the following question:

Whether, on the materials produced by the assessee, the Tribunal was bound to hold that the business at Lahore and Barabanki did constitute the

same business so as to justify the allowance of Rs. 40,000 as interest ?

2. The reference relates to the assessment years 1949-50 and 1951-52. The assessee is a registered firm. It operates a sugar mill at Barabanki in

U.P. and had a flour mill at Lahore in Punjab. The flour mill at Lahore was closed down at the time of the partition of the country, and the assets

and liabilities were transferred to Barabanki. The liabilities so transferred amounted to Rs. 7,51,397. For the assessment year 1949-50 the

assessee claimed a deduction on account of interest paid in respect of these liabilities. The claim was disallowed by the Income Tax Officer on the

ground that the liabilities related to the defunct business in Pakistan. He estimated the interest at Rs. 40,000 and added that amount to the profits.

Similarly, for the assessment year 1951-52, he disallowed the claim to deduction of interest, and added a similar figure of Rs. 40,000 to the profits.

On appeal by the assessee, the Appellate Assistant Commissioner held that the assessee was entitled to the deduction of interest for the two

assessment years. He took the view that the business carried on at Barabanki and that carried on at Lahore were one and the same business. The

Income Tax Officer appealed to the Income Tax Appellate Tribunal. The Tribunal allowed the appeal holding that the assessee was not entitled to

the deduction claimed by it. On a reference being denied by the Tribunal, the assessee applied to this court u/s 66(2) of the Indian Income Tax

Act, 1922, and the court then called for a reference on the question set out above. The reference has now been received.

3. The Tribunal has clearly found that the flour mill at Lahore was a separate business from the sugar mill at Barabanki. It has specifically held that

the activities at Barabanki and Lahore were quite diverse and distinct and there was no interconnection, interlacing or interdependence between the

two businesses. Learned counsel for the assessee has referred us to the decision of the Supreme Court in Commissioner of Income Tax, Madras

Vs. Prithvi Insurance Co. Ltd., The Supreme Court laid down that the interconnection, interlacing, interdependence and unity of a business are

evidenced by the existence of a common management, common business organisation, common administration, common fund and common place

of business. Before us, there is no finding by the Tribunal that there existed in the present case a common management, common business

organisation, common administration, common fund and a common place of business. The Tribunal has emphatically held that there was no

interconnection, interlacing and interdependence between the two businesses. The several considerations from which one can infer that a single

business was being carried on are absent. The finding is one of fact, and in the absence of anything to show that the finding is erroneous in law, we

must take it as the basis for deciding the question referred. It seems to us that there can be no dispute that upon that finding the question referred

must be answered in the negative.

4. The question is answered in the negative in favour of the Commissioner of Income Tax and against the assessee. The Commissioner is entitled to

his costs which we assess at Rs. 200, Counsel's fee is assessed in the same figure.