

(2008) 04 DEL CK 0131

Delhi High Court

Case No: None

Commissioner of Income Tax

APPELLANT

Vs

Dalmia Cement Bharat Ltd.

RESPONDENT

Date of Decision: April 2, 2008

Citation: (2008) 174 TAXMAN 190

Hon'ble Judges: Vidya Bhushan Gupta, J; Madan B. Lokur, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

1. Admit

2. After hearing learned Counsel for the parties, the following substantial questions of law are framed for consideration-

1. Whether the Income Tax Appellate Tribunal was correct in law in deleting the disallowance amounting to Rs. 57,82,010 on account of alleged payment made to field organizers/sales promoters for organizing sales of non-levy cement?

2. Whether the Income Tax Appellate Tribunal was correct in law in not allowing depreciation on assets relating to water works, water installation and water distribution system forming part of the building @ 10 per cent as against the claim made by the assessee at 25 per cent?

3. Whether the Income Tax Appellate Tribunal was correct in law in allowing the assessee to reduce the amount of Rs. 2,87,29,151 realized on account of higher free sale quota under the sugar incentive scheme holding the same as capital receipt?

4. Whether the Income Tax Appellate Tribunal was justified in law in holding that the expenditure of Rs. 25,80,000 incurred by the assessee on total quality management project was revenue in nature as no new asset was brought into existence by the assessee?

3. Learned Counsel for the revenue has also raised the following two questions of law:

1. Whether the Income Tax Appellate Tribunal was correct in law in allowing the assessee depreciation on the enhanced cost of assets due to increase in liability on account of foreign exchange rate fluctuation on the last date of the accounting year?

2. Whether the Income Tax Appellate Tribunal was correct in law in holding that the sales tax was not to be included in total turnover while computing deduction u/s 80HHC of the Act?

4. Insofar as first additional question is concerned, the admitted position is that in view of the decision of this Court in CIT v. Woodward Governor . India (P.) Ltd. (2007) 294 ITR 4511, no substantial question of law arises.

5. Insofar as second additional question is concerned, the admitted position is that in view of the decision of the Supreme Court in CIT v. Lakshmi Machine Works (2007) 290 ITR 6672, no substantial question of law arises.

6. To be listed along with ITA No. 434/2007.

7. Filing of paper books is dispensed with.