

(1988) 03 MP CK 0004

Madhya Pradesh High Court

Case No: Miscellaneous Civil Case No. 441 of 1984

H. H. MAHARAJA MARTAND
SINGH JU DEO

APPELLANT

Vs

COMMISSIONER OF Income Tax.

RESPONDENT

Date of Decision: March 7, 1988

Acts Referred:

- Income Tax Act, 1961 - Section 57

Citation: (1988) 74 CTR 147 : (1988) 174 ITR 515

Hon'ble Judges: G. G. Sohani, Acting C.J.

Bench: Division Bench

Judgement

G. G. SOHANI, ACTG. C.J. - By this reference u/s 256 (1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"), the Income Tax Appellate Tribunal has referred the following question of law to this court for its opinion :

"Whether, on the facts and in the circumstances of the case, the interest payment of Rs. 93,837 on bank overdrafts was an allowable deduction in computing the income of the assessee ?"

The material facts giving rise to this reference briefly are as follows : The assessee is assessed in the status of a Hindu undivided family and the assessment year in question is 1977-78. While framing assessment, the Income Tax Officer rejected the claim of the assessee for deduction of Rs. 93,837 on account of interest paid on overdrafts taken for payment of Income Tax and wealth-tax. The contention of the assessee was that as the capital of the assessee was locked up, the assessee was required to take overdrafts for payment of taxes and hence the interest payment on overdrafts was an allowable deduction. The Income Tax Officer held that the claim of the assessee was not tenable because the overdrafts were taken for meeting the personal expenses of the assessee and not for earning interest or dividend as claimed by the assessee. The Income Tax Officer held that interest payment was

allowable only for payment of Income Tax and not for wealth-tax u/s 80V of the Act. In this view of the matter, the Income Tax Officer held the allowable deduction to be Rs. 20,000 only. On an appeal filed by the assessee, the Commissioner of Income Tax (Appeals) affirmed the order passed by the Income Tax Officer in this behalf. The appeal filed by the assessee before the Tribunal in that behalf was also dismissed. Aggrieved by the order passed by the Tribunal, the assessee sought reference and it is at the instance of the assessee that the aforesaid question of law has been referred to this court for its opinion.

Shri Shrivastava, learned counsel for the assessee, contended that the interest payment on overdrafts was an allowable deduction u/s 57(iii) of the Act. The contention cannot be upheld. In order to justify the claim for deduction u/s 57(iii) of the Act, the assessee had to satisfy the Income Tax Officer that the loan, interest in respect of which was claimed as deduction, was laid out or expended wholly and exclusively for earning the income from out of which the deduction was claimed. The taxing authorities have found that the overdrafts were taken by the assessee to meet his personal liability of payment of Income Tax and wealth-tax. In these circumstances, as held by the Supreme Court in Smt. Padmavati Jaikrishna Vs. Additional Commissioner of Income Tax, Gujarat, the dominant purpose of the assessee in taking overdrafts was not to earn income by way of interest or dividend but to meet the personal liability of payment of Income Tax and wealth-tax. The Tribunal, in our opinion, was, therefore, right in holding that interest payment on overdrafts was not, in the circumstances of the case, an allowable deduction u/s 57(iii) of the Act.

Our answer to the question referred by the Tribunal is, therefore, that interest payment of Rs. 93,837 was rightly held by the Tribunal to be not an allowable deduction u/s 57(iii) of the Act. In the circumstances of the case, parties shall bear their own costs of this reference.