

**(2002) 07 MAD CK 0246**

**Madras High Court**

**Case No:** Tax Case No. 833 of 1992 15 July 2002

Commissioner of Income Tax

APPELLANT

Vs

Madura Coats Ltd.

RESPONDENT

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**Date of Decision:** July 15, 2002

**Citation:** (2002) 125 TAXMAN 48

**Hon'ble Judges:** V.S. Sirpurkar, J; N.V. Balasubramanian, J

**Bench:** Full Bench

**Advocate:** T.C.A. Ramanujam, for the Revenue Janarthana Raja, for the Assessee, for the Appellant;

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### **Judgement**

@JUDGMENTTAG-ORDER

N.V. Balasubramanian, J.

The Tribunal has stated a case u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") and referred the following questions of law in relation to the assessment year 1980-81 of the assessee :

"1. Whether, on the facts and in the circumstances of the case, the claim of the assessee for weighted deduction u/s 35B in respect of bank charges of Rs. 8,68,600 has to be conceded ?

2. Whether, on the facts and in the circumstances of the case, the disallowance under sections 40A(5) and 40(c) was rightly made by the assessing officer in respect of the expenditure incurred on the company cars which were used for the personal purposes of the employees and directors ?

3. Whether, on the facts and in the circumstances of the case, the sum of Rs. 81,810 incurred by the assessee for shifting its administrative office from Madurai to Bangalore as a result of amalgamation of three companies having number of activities in various centres was allowable as revenue expenditure in the computation of its business income ?"

2. Mr. P.P.S. Janarthana Raja, the learned counsel, undertakes to file vakalath for the respondent-assessee.
3. Insofar as the first question referred to us is concerned, it is fairly submitted by the learned counsel for the assessee as also the learned counsel for the revenue that the issue raised in the question is covered in favour of the revenue by the decision of the Full Bench of this court in [V. GURUVAIAH NAIDU and SONS Vs. Commissioner of Income Tax](#), wherein, this court held that the assessee is not entitled to the weighted deduction u/s 35B of the Act in respect of the bank charges paid in India. Following the decision in V. Guruvaiah Naidu & Sons" case (supra), the first question is answered in favour of the revenue and against the assessee.
4. Insofar as the second question is concerned, it relates to the disallowance of the expenditure u/s 40A(5) of the Act. It was found by the assessing authority that the expenditure was incurred in respect of use of the company cars by the employees and directors of the assessee company for their personal purposes. Hence, the disallowance of the expenditure u/s 40A(5) of the Act by the assessing authority is warranted as the cars were used for the personal purposes of the employees and directors of the assessee and the Tribunal was not correct in deleting this amount. We, therefore, answer this question in favour of the revenue and against the assessee.
5. Insofar as the third question of law is concerned, it is fairly submitted by the learned standing counsel for the revenue that this question was considered by this court in the assessee's own case in T.C. No. 474 of 1989
6. The tax case is disposed of accordingly. No costs.