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Commissioner of Income Tax Vs Tamilnadu State Transport Corporation Ltd.

Tax Case No"s. 285 and 286 of 1998

Court: Madras High Court

Date of Decision: Nov. 6, 2002

Acts Referred:
Income Tax Act, 1961 â€" Section 37(1)

Citation: (2004) 187 CTR 671

Hon'ble Judges: N.V. Balasubramanian, J; K. Raviraja Pandian, J

Bench: Division Bench

Advocate: Pushya Sitharaman, for the Appellant; Philip George, for the Respondent

Judgement

N.V. Balasubramanian, J.
Pursuant to the directions of this Court in T.C.P. Nos. 278 and 279 of 1996, the Tribunal has stated the case

and referred the following common question of law for our consideration:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the contribution of Rs. 5,65,056 and Rs.

13,239 made by the assessee to an insurance fund for meeting out third party liability should be allowed as a deduction in computing the total

income of the assessee?

2. The assessment years involved in these references are 1984-85 and 1985-86. Mr. Philip George undertakes to file Vakalat on behalf of the

respondent. The name of the respondent is mentioned as Maruthu Pandiar Transport Corporation Ltd., Karaikudi, in cause title and the correct

name of the respondent as seen from a subsequent Government Order of the State of Tamil Nadu is Tamil Nadu State Transport Corporation,

Kumbakonam Division III Ltd., Karaikudi, and accordingly, the correct name of the respondent shall be substituted in the cause title. The question

that arises for consideration is whether the assessee is entitled to deduction of the contributions made by it to an insurance fund for meeting its third

party liabilities that may arise. The Tribunal following the earlier order rendered in the case of ITO v. Pallavan Transport Corporation Ltd. (ITA

Nos. 1257 and 1258/Mad/1978-79) held that contribution to the authorised insurance fund would be an admissible deduction. The order of the

Tribunal rendered in the case of ITO v. Pallavan Transport Corporation Ltd. was the subject-matter of the reference before this Court and this

Court in Commissioner of Income Tax Vs. Pallavan Transport Corporation Ltd., , held that the amount appropriated to the contingent reserve,

which was set apart to meet the possible exigencies was not a provision for a known and existing liabilities and, therefore, it was not deductible as

business expenditure. The learned counsel for the assessee fairly admits that the decision of this Court in CIT v. Pallavan Transport Corporation

Ltd. (supra) would apply to the facts of the present cases. Accordingly, we hold that the contribution made by the assessee to the insurance fund

for meeting any liability that may arise out of the use of motor vehicle is a contingent liability not deductible. Following the decision rendered in CIT

v. Pallavan Transport Corporation Ltd. (supra), we answer the question of law referred to us in the negative, in favour of the Revenue and against

the assessee. However, in the circumstances of the case, there will be no order as to costs.