Commissioner of Income Tax Vs New Shorrock Spg. and Mfg. Co. Ltd.

Court: Bombay High Court

Date of Decision: Nov. 8, 1994

Acts Referred: Income Tax Act, 1961 â€" Section 80G

Citation: (1995) 123 CTR 297 : (1995) 212 ITR 355

Hon'ble Judges: S.M. Jhunjhunwala, J; B.P. Saraf, J

Bench: Division Bench

Advocate: G.S. Jetley, for the Appellant; F.B. Andhyarujina, for the Respondent

Judgement

DR. B.P. Saraf, J.
By this reference u/s 256(1) of the Income Tax Act, 1961, the Income Tax Appellate Tribunal has referred the

following question of law at the instance of the Revenue to this court for opinion :

Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the limits prescribed u/s 80G(4) should be

applied only after computation of the deduction allowable u/s 80G(1) so that the assessee would be entitled to deduction of 50 per cent. of the

donation as restricted by the ceiling limit of ten per cent. of the total income ?

2. The assessee is a limited company. This reference pertains to the assessment year 1973-74. In its assessment for this assessment year, the

assessee-company claimed deduction u/s 80G(1) of the Income Tax Act, 1961 (""the Act""). The aggregate of the amounts referred to in sub-

clauses (iv) and (v) of clause (a) of sub-section (2) exceeded the sum of Rs. 2 lakhs. The assessee computed the deduction u/s 80G of the Act as

50 per cent. of the aggregate of the sums specified in sub-section (2) without applying the ceiling of Rs. 2 lakhs specified in sub-section (4) in

respect thereof. The Income Tax Officer did not accept the computation of the assessee. He was of the opinion that the ceiling specified in sub-

section (4) of section 80G was applicable to the amount of donations falling under the heads specified therein and not to the amount of deduction

allowable u/s 80G(1). He, therefore, recomputed the deduction by restricting the deduction under sub-section (1) in respect of such part of the

aggregate of the sums referred to in sub-clauses (iv) and (v) of clause (a) of sub-section (2) to Rs. 2 lakhs. The assessee appealed to the

Commissioner (Appeals). The Commissioner (Appeals), relying on the decision of the Andhra Pradesh High Court in Hyderabad Race Club Vs.

Addl. Commissioner of Income Tax, , accepted the contention of the assessee and held that the ceiling laid down by sub-section (4) was

applicable not to the aggregate amount in respect of which the deduction was claimed but to the amount deductible under sub-section (1). The

Revenue appealed to the Tribunal. The Tribunal dismissed the appeal of the Revenue and upheld the decision of the Commissioner (Appeals).

Hence, this reference at the instance of the Revenue.

3. Section 80G of the Act as applicable to the assessment for the assessment year 1973-74, so far as it is relevant, read as follows :

80G. Deduction in respect of donations to certain, funds, charitable institutions, etc. - (1) In computing the total income of an assessee, there shall

be deducted, in accordance with and subject to the provisions of this section, an amount equal to, -

(a) where the assessee is a company, fifty per cent., and

(b) in the case of any other assessee, fifty-five per cent., of the aggregate of the sums specified in sub-section (2).

(2) The sums referred to in sub-section (1) shall be the following, namely :-

(a) any sums paid by the assessee in the previous year as donations to -

(i) the National Defence Fund set up by the Central Government; or

(ii) the Jawaharlal Nehru Memorial Fund referred to in the Deed of Declaration of Trust adopted by the National Committee at its meeting held on

the 17th day of August, 1964; or

(iii) the Prime Minister"s Drought Relief Fund; or

(iv) another fund or any institution to which this section applies; or

(v) the Government of any local authority, to Be utilised for any charitable purpose;

(b) any sums paid by the assessee in the previous year as donations for the renovation or repair of any such temple, mosque, gurdwara, church or

other place as is notified by the Central Government in the Official Gazette to be of historic; archaeological or artistic importance or to be a place

of public workship of renown throughout any State or States.

(3) No deduction shall be allowed under sub-section (1) if the aggregate of the sums referred to in sub-section (2) is less than two hundred and

fifty rupees.

(4) The deduction under sub-section (1) shall not be allowed in respect of such part of the aggregate of the sums referred to in sub-clauses (iv) and

(v) of clause (a) and in clause (b) of sub-section (2) as exceeds ten per cent. of the gross total income (as reduced by any portion thereof on which

Income Tax is not payable under any provision of this Act and by any amount in respect of which the assessee is entitled to a deduction under any

other provision of this Chapter), or two hundred thousand rupees, whichever is less. :

Provided that where such aggregate includes any donations referred to in clause (b) of sub-section (2) and such aggregate exceeds the limit of two

hundred thousand rupees specified in this sub-section, then such limit shall be raised to cover that portion of the donations aforesaid which is equal

to the difference between such aggregate and the said limit, so, however, that the limit so raised shall not exceed ten per cent. of the assessee''s

gross total income as reduced as aforesaid, or five hundred thousand rupees, whichever is less.

4. It is evident on a plain reading of section 80G itself that in the computation of the total income, the assessee who is a company is entitled to a

deduction of an amount equivalent to 50 per cent. of the aggregate of the sums specified in sub-section (2). The deduction, however, would be

assessed in accordance with and ""subject to the provisions of this section"". Sub-section (2) had categorised the amounts paid by the assessee

under different heads in clauses (a) and (b). Amounts falling under clause (a) have been further classified in five categories under sub-clauses (i) to

(v) of clause (a). Sub-section (3) provides that no deduction shall be allowed under sub-section (1) if the aggregate of the sums referred to in sub-

section (2) is less than Rs. 250. In other words, sub-section (3) restricts the deduction under sub-section (1) only to those cases where the

aggregate of the sums specified in sub-section (2) is not less than Rs. 250. Sub-section (4) puts a ceiling on the aggregate of the sums paid by the

assessee in the previous year as donation referred to in sub-clauses (iv) and (v) and in sub-clause (b) of sub-section (2). It provides that the

deduction under sub-section (1) shall not be allowed in respect of such part of the aggregate of the sums referred to in sub-clauses (iv) and (v) of

clause (a) and in clause (b) of sub-section (2) as exceeds ten per cent. of the gross total income or Rs. 2 lakhs, whichever is less. This deduction

under sub-section (1) is allowable at the rates specified therein, in respect of the aggregate of the sums specified in sub-section (2) subject to the

ceiling proposed by sub-section (4). Sub-section (4) says in no less clear terms that deduction under sub-section (1) shall not be allowed in

respect of the part of the aggregate of the sums referred to therein. Sub-section (4), thus, in terms puts a ceiling on the part of the aggregate of the

sums specified in sub-section (2) in respect of which deduction can be allowed under sub-section (1). It does not deal with the amount of

deduction that can be allowed under sub-section (1). The computation of deduction under sub-section (1) has to be made in respect of the

aggregate of the sums specified in sub-section (2) read with sub-section (4). We are, therefore, of the clear opinion that the ceiling specified in sub-

section (4) applies to the aggregate of the sums in respect of which deduction is claimed and not to the amount of deduction allowed under sub-

section (1) which has to be computed in the manner specified therein.

5. We have carefully considered the decision of the Andhra Pradesh High Court in Hyderabad Race Club Vs. Addl. Commissioner of Income

Tax, , where it has been held that the limitation imposed in sub-section (4) of section 80G is the ceiling for the deduction allowed u/s 80G and not

for the part of the aggregate amount paid by the assessee. For the reasons set out above, we find it difficult to agree with the decision of the

Andhra Pradesh High Court. We have also considered the decision of the Karnataka High Court in Commissioner of Income Tax Vs. Canara

Bank, , where it has been held that by virtue of sub-section (4), the assessee is not entitled to deduction. under sub-section (1) in respect of that

part of the donation which exceeds rupees 2 lakhs. We are in respectful agreement with the above interpretation.

6. Learned counsel for the assessee made two further submissions. Firstly, according to him, there being two decisions of two different High

Courts, one in favour of the assessee and another against the assessee, the one in favour of the assessee should be accepted. It is stated by learned

counsel that it is well-settled that where two views are possible, the one beneficial to the assessee should be accepted by the courts. So far as this

proposition as such is concerned, we do not find any difficulty in accepting the same. We, however, find it difficult to equate the two decisions with

two reasonable interpretations. According to us, the question of accepting the principle of beneficial interpretation would arise only in a case where

two views are reasonably possible in the opinion of the court deciding the point at issue. In such a case the court should tilt in favour of the

assessee. But where on a plain reading of the statutory provision, it is of the opinion that one and only one interpretation is reasonably possible and

that is against the assessee, it cannot give an erroneous interpretation in favour of the assessee by taking resort to the principle of beneficial

interpretation.

7. As observed by this court in Commissioner of Income Tax Vs. Mirza Ataullaha Baig and another, :

..... this principle applies only when there is reasonable and genuine doubt in regard to the interpretation of a particular provision. It has no

application to a case where the provision is clear and the law is well-settled. This principle cannot be stretched too far. It cannot be used to

misinterpret a statutory provision which is otherwise clear and brooks no doubt about its meaning or interpretation just to give benefit to the

taxpayer which the statute did not intend to give.

8. To the same effect is the decision of this court in M.H. Daryani Vs. Commissioner of Income Tax, , where it was held (at page 735) :

. . . . the principle of beneficial interpretation or interpretation in favour of the assessee has application only in a case where, on a proper

interpretation, the court is in doubt about the true scope and ambit of the provision or finds that two equally reasonable interpretations - one in

favour of the assessee and the other in favour of the Revenue - are possible. It is only in such cases that the question of accepting one of the two

reasonably possible interpretations would arise. The principle of beneficial interpretation has no application in a case where the words of a statute

are plain, precise and umambiguous. In that case, the courts have no option but to give effect to it.

9. This view was reiterated by this court in Commissioner of Income Tax Vs. Thana Electricity Supply Ltd., in the following words :

It is, therefore, clear that it is the satisfaction of the court interpreting the law that the language of the taxing provision is ambiguous or reasonably

capable of more meanings than one, which is material. If the court does not think so, the fact that two different views have been advanced by

parties and argued forcefully, or that one such view which is favourable to the assessee has been accepted by some Tribunal or High Court, by

itself will not be sufficient to attract the principle of beneficial interpretation.

10. We are, therefore, of the clear opinion that the principle of beneficial interpretation has no application to the present case.

11. Another submission of learned counsel for the assessee was that section 80G being intended to give relief in respect of donations for charitable

purposes, it should be construed liberally so as to give benefit to the assessee. We appreciate the sentiments of learned counsel. Left to us we

might have considered this submission. But that is not so. It is for the Legislature to decide how much relief to give in respect of which donations,

when and under what circumstances. Where the law is clear and unambiguous, we cannot act contrary to it with a view to giving benefit to an

assessee who has donated for a charitable purpose. In view of the above, we answer the question referred to us in the negative and in favour of the

Revenue.

12. In the facts and circumstances of the case, there shall be no order as to costs.