(1995) 01 RAJ CK 0023

In the Rajasthan High Court

Case No : Income Tax Reference No. 107 of 1982

Commissioner of Income Tax — APPELLANT

Vs

Aditya Mills Ltd. — RESPONDENT

Date of Decision : 12-01-1995

Acts Referred:
Income Tax Act, 1961 — Section 143(1), 256

Citation : (1995) 01 RAJ CK 0023

Hon'ble Judges : Y.R. Meena, J;V.K. Singhal, J

Bench : Division Bench

Advocate : G.S. Bafna, for the Appellant; Asha Tyagi, for the Respondent

Judgement

1. The Revenue has moved an application u/s 256(2) with the request that the following two questions of law arise out of the order of the Tribunal dated September 29, 1980, and, therefore, the Income Tax Appellate Tribunal be directed to refer the same :

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in upholding the order of the Appellate Assistant Commissioner deleting the addition of Rs. 1,79,059 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the finding of the Appellate Assistant Commissioner in deleting the addition of Rs. 13,075 made on account of interest paid ?"

2. The brief facts of the case are that the assessee is a manufacturer of yarn and made purchases of acrylic fibre cotton and waste for a sum of Rs, 1,79,058 from Haresh Traders of Bombay. The assessment u/s 143(1)(a) was framed by the Income Tax Officer on March 30, 1974. Subsequently, an information was received by the ADI. (Int.), Bombay, by letter dated January 2,1977, that Haresh Traders was not a genuine concern. An affidavit of Shri Kashi Nath Mahadev Khardo was also forwarded by the Income Tax Officer, Central Circle, Bombay, to the assessing authority of the assessee from which it was evident that Haresh

Traders simply issued the bills and no actual business was carried on by the concern. The reassessment proceedings were initiated and the Income Tax Officer recorded a finding that the purchase transaction was not genuine and the purchases were entered with a view to reduce the profit of the trader. But an addition to Rs. 1,79,058 was made on this account. A further addition of Rs. 13,075 was made by the Income Tax Officer on the ground that the payment aggregating to Rs, 82,000 allegedly made to Haresh Traders was not for the purpose of business and the assessee charged interest on the loans having been raised thereon. The proportionate amount of interest of Rs. 13,075 was disallowed by the Income Tax Officer. Against the reassessment order, an appeal was preferred and the appeal was accepted by the Commissioner of Income Tax (Appeals). The order of the Commissioner of Income Tax (Appeals) was confirmed by the Appellate Tribunal.

3. Without going into the merits of the case at this stage, I find that in view of the observations made by the apex court in the case of M/s. Phool Chand Bajrang Lal and another Vs. Income Tax Officer and another, a question of law does arise from the order of the Tribunal.

4. Accordingly, the Income Tax Appellate Tribunal is directed to refer the two questions of law. The reference is allowed.