(2005) 03 P&H CK 0150

In the Punjab And Haryana At Chandigarh

Commissioner of Income Tax — APPELLANT

Vs

Agro Tech (India) Ltd. — RESPONDENT

Date of Decision : 01-03-2005

Acts Referred:
Income Tax Act, 1961 — Section 260A

Citation : (2008) 296 ITR 166 : (2006) 155 TAXMAN 627

Hon'ble Judges : N.K. Sud, J;Ajay Kumar Mittal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

N.K. Sud, J.—The Revenue has filed this appeal u/s 260A of the Income Tax Act, 1961 (for short the "Act"), against the order of the Income Tax Appellate Tribunal, Chandigarh Bench "A" (for short the "Tribunal"), dated January 23, 2004, relating to the assessment year 1990-91.

2. The only contention raised by counsel for the appellant is that the Tribunal was not right in upholding the order of the Commissioner of Income Tax (Appeals), whereby the investment allowance on the amount of Rs. 2,83,53,123 capitalised under the head "Plant and machinery" has been allowed.

3. The assessee had claimed investment allowance on the cost of plant and machinery, the value of which was claimed to be Rs. 10,58,39,362. While examining the machinery account, the Assessing Officer noticed that the machinery included a sum of Rs. 2,83,53,123 which represented capitalisation of various expenses and had no direct relation with the purchase or installation of plant and machinery. The Assessing Officer found that most of these expenses related to administrative charges, production charges or expenses in relation to the public issue. The Assessing Officer held that while expenses are to be allowed to be capitalised to arrive at the profit or loss during the year, the same could not be treated as cost of machinery having no bearing with the same and, therefore, were to be excluded for the purpose of calculation of investment allowance.

Accordingly, the claim of investment allowance was disallowed to that extent.

4. The assessee preferred an appeal before the Commissioner of Income Tax (Appeals)(for short the "CIT(A)"); who observed that since the Assessing Officer had himself treated the said amount of Rs. 2,83,53,123 towards the cost of machinery for the purpose of allowance of depreciation, he could not be allowed to take a contradictory stand while allowing investment allowance. This finding has been upheld by the Tribunal on further appeal by the Revenue.

5. Mr. D.S. Patwalia, learned Counsel for the Revenue, has not been able to controvert the factual position that the sum of Rs. 2,83,53,123 has been treated as cost of machinery for the purpose of allowance of depreciation. We, therefore, find no infirmity in the orders of the Commissioner of Income Tax (Appeals) as well as the Tribunal in holding that the actual cost of machinery and plant for the purpose of investment allowance had to be the same.

6. We are, therefore, satisfied that no substantial question of law arises out of the order of the Tribunal for consideration of this Court.

7. The appeal is, accordingly, dismissed in limine.