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(1988) 05 P&H CK 0103

In the Punjab And Haryana At Chandigarh

Case No : Income-tax Reference No. 55 of 1978

COMMISSIONER OF Income Tax — APPELLANT

Vs

AMRITSAR SUGAR MILLS CO. LTD. — RESPONDENT

Date of Decision : 11-05-1988

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

Citation : (1988) 174 ITR 367

Hon'ble Judges : S. P. Goyal, J

Bench : Division Bench

Judgement

S. P. GOYAL J. - The following two questions have been referred u/s 256(1) of the Income Tax Act, 1961, for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the interest paid for non-payment of purchase tax under the U. P. Sugarcane (Purchase Tax) Act, 1961, is not tantamount to penalty ?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the sum of Rs. 60,610 paid on account of interest for non-payment of purchase tax under the U. P. Sugarcane (Purchase Tax) Act, 1961, is a permissible deduction ?"

In fact, the answer to the second question depends entirely on question No. 1 and if it is held that the payment of interest is not tantamount to penalty, the second question has to be answered in the affirmative.

It is not necessary to note the rival contentions of the parties because the matter stands concluded by the judgment of the Supreme Court in Mahalaxmi Sugar Mills Co. Vs. Commissioner of Income Tax , Delhi, wherein it was held that the interest paid u/s 3(3) of the UP. Sugarcane Cess Act was not a penalty paid for infringement of the law and was an allowable deduction u/s 10 (2) (xv). Following that decision, question No. 1 is answered in the affirmative. Question

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No. 2 follows suit as already stated above and the reference stands answered accordingly. No costs.

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