(2003) 05 AHC CK 0098

In the Allahabad High Court

Case No : IT Reference No. 264 of 1983 14 May 2003

Commissioner of Income Tax	APPELLANT
Vs	
Auto Sales	RESPONDENT

Date of Decision : 14-05-2003

Acts Referred:

Citation : (2003) 132 TAXMAN 891

Hon'ble Judges : Sudir Narain, J;D.P. Gupta, J

Bench : Full Bench

Judgement

The following question has been referred to this court by the Appellate Tribunal :

"Whether, on the facts and in the circumstances of the case, the Tribunal was lawful to hold that transaction by book entries are not genuine transactions and, therefore, interest payment on debit as a result of such transactions are not allowable as deduction expenditure specially in absence of any such observation of finding by the Income Tax Officer to this effect ?"

2. The Tribunal, in respect of the question arising out of the order dated 6-11-1982 referred to it, had relied upon a decision for the assessment year 1971-72 for holding that the amount of Rs. 2,59,873 realised by the assessee for the accounting year 1970-71 did not constitute the trading receipts. The said decision was upheld by this court in Commissioner of Income Tax Vs. Auto Sales, , wherein it was held that where the assessee was a dealer of motor vehicles and sold the same on hire purchase basis in which system there was no immediate sale of the vehicle at the time of the delivery of the same to the prospective buyers but the ultimate sale was effected after the instalments of hire were cleared, for the receipt of the amount by the assessee before such final sale was effected, there was no liability towards the sales tax. The liability arose only when the sale was actually made and since that event was uncertain and in the absence of evidence that amounts were received as part of the price for which goods were supplied, the excess amount that was left on the conclusion of the transaction and transferred to the sundry creditors account alone was taxable.

3. In view of the said decision the question referred to above is decided in the affirmative.

4. The reference application is accordingly disposed of finally.