(2006) 02 MAD CK 0063

In the Madras High Court

Case No : Tax Case (Appeal) No''s. 81 and 82 of 2006

Commissioner of Income Tax APPELLANT

Vs

Carborandum Universal Ltd. RESPONDENT

Date of Decision : 02-02-2006

Acts Referred:
Income Tax Act, 1961 — Section 36(1)

Citation : (2006) 205 CTR 498

Hon'ble Judges : P.P.S. Janarthana Raja, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : J. Narayanaswamy, for the Appellant;

Final Decision : Dismissed

Judgement

P.P.S. Janarthana Raja, J.—The above tax case appeals are directed against the order of the Tribunal in ITA Nos. 2266 and

2267/Mad/1996 dt. 19th Nov., 2004, raising the following substantial questions of law:

1. Whether, in the facts and circumstances of the case, the Tribunal was right in deleting the addition towards the element of the customs duty on

the closing stock.

2. Whether, in the facts and circumstances of the case, the Tribunal was right in deleting the addition towards the element of the customs duty on

the closing stock.

3. Whether, on the facts and circumstances of the case, the Tribunal was right in holding that the interest paid on the borrowed capital prior to the

commencement of the production was allowable as revenue expenditure.

2. The Revenue is the appellant. The assessment year involved in the appeals is

1994-95. The assessee filed a return of income on 28th Nov.,

1994, showing the total income at Rs. 3,50,25,940. The case was processed on 7th April, 1995 determining the total income at Rs. 3,51,67,020.

During the accounting year under consideration, the assessee has started 3 projects viz., Hydel Project, Bonded expansion project and EMD

expansion project. The assessee had incurred substantial amount of capital expenditure on the establishment of the above projects. For the

purpose of incurring capital expenditure in the project, the assessee borrowed funds from outside and paid interest at Rs. 2,39,61,676. The

interest amount of Rs. 2,39,61,676 was capitalised by the assessee in the books. However, while computing the income for the purpose of Income

Tax, the assessee claimed to the extent of Rs. 2,39,61,676, as revenue expenditure. The AO made disallowance of interest relating to the three

new projects by relying on the ratio of the Supreme Court in the case of Challapalli Sugar Ltd. Vs. The Commissioner of Income Tax, A.P.,

Hyderabad, , on the ground that the interest was paid before the commencement of the production and the same was capitalised and not allowed

as revenue expenditure. Further, the AO included the excise and customs duty in the value of the closing stock.

3. Aggrieved by the said order, the assessee filed appeal to the CIT(A). The CIT(A), allowed the appeal partly. Hence, both the Revenue and the

assessee preferred appeals before the Tribunal. The Tribunal allowed both the issues in favour of the assessee.

4. The issue involved in questions 1 and 2 is covered against the Revenue by the decision of this Court in the case of Commissioner of Income Tax

Vs. English Electric Co. of India Ltd., . Hence, the order of the Tribunal is in conformity with law.

5. In respect of question No. 3, the assessee claimed deduction u/s 36(1)(iii) of the Act, which reads as follows:

36(1)(iii). The amount of the interest paid in respect of capital borrowed for the purposes of the business or profession.

From a very reading of the above clause, it is clear that three conditions are required to be specified to enable the assessee to claim deduction in

respect of interest on borrowed money, which are as follows:

1. There should be borrowal of money by the assessee;

2. It must be for the purpose of business; and

3. The interest must be paid on the borrowed money.

In this case, both the authorities below had given a concurrent finding that the assessee borrowed money for the purpose of expansion of the

projects and paid interest on the borrowed money. Hence, the claim of the assessee u/s 36(1)(iii) of the Act is in conformity with law.

6. In view of the foregoing conclusions, we do not find any error or infirmity in the order of the Tribunal and no substantial questions of law arise

for consideration of this Court. Hence, we dismiss the above tax cases. No costs.