
(1990) 12 AHC CK 0081
In the Allahabad High Court
Case No : Income-tax Reference No. 1 of 1979

Commissioner of Income Tax	Vs	APPELLANT
Development Trust (P.) Limited		RESPONDENT

Date of Decision : 06-12-1990

Acts Referred:

Income Tax Act, 1961 — Section 256(1)

Citation : (1991) 189 ITR 504

Hon'ble Judges : B.P. Jeevan Reddy, C.J.;V.N. Mehrotra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

B.P. Jeevan Reddy, C.J.—The Tribunal has referred the following question u/s 256(1) of the Income Tax Act, 1961 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the liability in those cases was not a contingent liability but a liability in praesenti and consequently allowing the development expenses of Rs. 14,998 and Rs. 1,04,156 for the assessment years 1972-73 and 1973-74, respectively ?"

2. The assessee is a private limited company carrying on the business of colonisation at Agra. In the assessment years 1972-73 and 1973-74, it undertook the development of a colony known as "Vibhav Nagar" at Agra. The assessee-company had undertaken to develop the said colony as given in the layout plan duly approved by the Municipal Committee. A part of the development was to be undertaken by the Municipal Committee and the other part by the assessee. The assessee deposited sums of Rs. 45,000 and Rs. 42,000 with the Municipal Committee in lieu of the development to be carried out by the Municipal Committee in the said years. Besides these amounts, the assessee debited Rs. 14,998 and Rs. 1,04,156 respectively in the said two years on account of development to be carried out by it.

3. The Income Tax Officer allowed the deduction of the two amounts paid to the Municipal Committee but disallowed the estimated liability on the ground that the assessee had not incurred that expense. The Income Tax Officer was of the opinion that, even under the mercantile system of accounting, the estimated expenditure on a contingent liability could not be made the subject of deduction. On appeal, however, the Appellate Assistant Commissioner disallowed the appeal though, for an earlier year, a similar claim was allowed by him. The Tribunal has, however, allowed the appeal filed by the assessee.

4. We find that the facts of this case are similar to the facts of Calcutta Company Ltd. Vs. The Commissioner of Income Tax, West Bengal, . That too was a case of development. In this case also, the assessee has been debiting the expenses to be incurred by it on development but only in respect of those plots which were sold in the relevant accounting year. It may be mentioned that the assessee in this case also is maintaining his accounts on mercantile basis. Since it is not disputed by either counsel that the facts of this case are similar to those of the aforesaid decision of the Supreme Court, the question referred herein is answered in the affirmative, i.e., in favour of the assessee and against the Revenue. No costs.