

(2003) 04 AHC CK 0278

In the Allahabad High Court

Case No : IT Reference No. 316 of 1982 25 April 2003

Commissioner of Income Tax

APPELLANT

Vs

Development Trust (P) Ltd.

RESPONDENT

Date of Decision : 25-04-2003

Acts Referred:

Income Tax Act, 1961 — Section 154, 256

Citation : (2003) 131 TAXMAN 824

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

Bench : Full Bench

Advocate : A.N. Mahajan, for the Revenue Ratnakar Bharti, for the Assessee, for the Appellant;

Judgement

The following question has been referred for opinion :

1. Whether, on the facts and in the circumstances of the case the Tribunal was correct in law in following the view that the liability in this case was not contingent liability but in praesenti and consequently allowing the development expenses of Rs. 19,486 ?"
2. Heard Shri A.N. Mahajan, learned counsel for the applicant, and Sri Ratnakar Bharti, learned counsel for the respondent.
3. Briefly stated the facts are that the assessee is a limited company engaged in the business of colonizing and land development besides having income from house property. It claimed development expenses of Rs. 64,986 which were allowed at Rs. 12,440 by the Income Tax Officer. He, however, modified the figure to Rs. 45,500 u/s 154. The assessee went in appeal and the Appellate Assistant Commissioner keeping in view the past history of the case as also the order of the Tribunal, deleted the addition of Rs. 19,486. The department filed appeal before the Income Tax Appellate Tribunal.
4. It was contended that the Appellate Assistant Commissioner was not justified in deleting the addition. The contention was not accepted by the Tribunal and the

appeal was dismissed. The matter has been referred u/s 256 of the Income Tax Act for opinion.

5. Similar question was raised and decided in Commissioner of Income Tax Vs. Development Trust Pvt. Ltd., , where it was held that the Tribunal was justified in holding that the estimated liability of development expenses was not a contingent liability but a liability in praesenti and hence an allowable deduction.

6. In view of the above decision our answer to the question is in affirmative and against the department. The reference is accordingly disposed of.

7. The parties shall, however, bear their own costs.