(1999) 04 MAD CK 0100

In the Madras High Court

Case No : Tax Case No. 1203 of 1988 (Reference No. 947 of 1988)

Commissioner of Income Tax APPELLANT

Vs

Dharmapuri Co-operative Sugar Mills Ltd. RESPONDENT

Date of Decision : 08-04-1999

Acts Referred:

Citation : (2000) 245 ITR 221 : (2001) 116 TAXMAN 575

Hon'ble Judges : R. Jayasimha Babu, J;A. Subbulakshmy, J

Bench : Division Bench

Advocate : S. Sundaresan, for the Appellant; P.P.S. Janarthana Raja, for the Respondent

Judgement

R. Jayasimha Babu, J.—In respect of the cane purchased, the assessee which is a sugar mill had after the end of this year of account paid the purchase tax payable on that part of the price paid subsequent to the end of the accounting year. The assessee claimed that the additional price which it was bound to pay and had paid should also be allowed as a deduction. The Income Tax Officer was of the view that the amount so paid cannot be deducted in the year in which the cane was received, but the same should be taken into account only for the year in which the payment was effected. That view of the Income Tax Officer was reversed by the appellate authority, whose decision was confirmed by the Tribunal. The Revenue is before us seeking reference of the following question :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in holding that the additional liability for cane purchase and additional purchase tax as per Government''s order dated October 14, 1982, was allowable as a deduction for 1982-83 ?"

2. It is not in dispute that the State Government by order dated October 14, 1982, directed all the sugar mills to pay an additional price of Rs. 30 per metric tonne over and above the amount of Rs. 212 per metric tonne, which had already been paid by the sugar mills for the cane supplied during the previous

year. The accounting year ended on September 30, 1981. It is also not in dispute that the amount so paid by the assessee was towards the price for the cane supplied to them and the assessee had also paid the purchase tax on that additional price. In so far as the assessee was concerned the payment made was for the cane which it received from the growers during the period prior to September 30, 1981, although the part of the price came to be determined and paid only subsequently and the purchase tax thereon was also paid subsequent to that period.

3. The liability for the payment of additional price as also the payment of additional tax arises by reason of the assessee having received the cane from the growers for the year ending September 30, 1981. The fact that the liability came to be discharged on a subsequent date and the quantification had also been done subsequently does not on that score alone disentitle the assessee from claiming the amount so paid by them as a deduction for the accounting year ending September 30, 1981.

4. It is well settled that the liability for payment of tax, even though determined finally long after the end of the accounting year must be regarded as relating back to the time at which the liability for payment of tax had been incurred and that the date of determination of the final liability is not decisive as to the year for which the assessee can claim the deduction.

5. The assessee maintains its accounts in the mercantile system. The liabilities which it had incurred or the liabilities which had accrued are required to be properly reflected in the accounts for the purpose of ascertaining the real profits for the year and that cannot be done if the liabilities accrued for that year are to be disregarded and such liabilities are taken note of for any subsequent period. A manufacturer can ascertain his profits only after all the costs incurred by him for the manufacture or sale of the products are properly accounted for and deducted from the sales realisation. The object of the Act is to tax profits and gains from the business. The profit has to be determined on the basis of the commercial practices which are normally adopted for the purpose of ascertaining the profit from the business. The liabilities incurred are required to be deducted before the profit is determined.

6. The Tribunal, therefore, in our view, has rightly held that the quantification of the liability after the end of the year does not disentitle the assessee from claiming the deduction in this year. The assessee having accepted the liability being part of the price payable for the cane received in the preceding year and having paid the tax thereon the liability is deemed to have arisen for the year of account and it is required to be taken note of for computation of income for that year.

7. We, therefore, answer the question referred to us in favour of the assessee and against the Revenue.

