

(1986) 01 KAR CK 0053

In the Karnataka High Court

Case No : Income-tax Reference Case No. 294 of 1979

Commissioner of Income Tax

APPELLANT

Vs

Hindustan Machine Tools Ltd. (No. 1)

RESPONDENT

Date of Decision : 07-01-1986

Acts Referred:

Income Tax Act, 1961 — Section 256 (1)

Citation : (1989) 175 ITR 212 : (1990) 49 TAXMAN 233

Hon'ble Judges : R.S. Mahendra, J;K.S. Puttaswamy, J

Bench : Division Bench

Advocate : K. Srinivasan and H. Raghavendra Rao, for the Appellant; K.P. Kumar, for the Respondent

Judgement

K.S. Puttaswamy, J.—In this reference made u/s 256(1) of the Income Tax Act, 1961, ("the Act"), the Income Tax Appellate Tribunal, Bangalore Bench, Bangalore ("the Tribunal"), at the instance of the Revenue, has referred the following question of law for the opinion of this court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in deciding that the revenue expenditure incurred by the assessee in connection with its new divisions is deductible as business expenditure of the assessee ?"

2. For the relevant assessment year with which we are concerned in this reference, the Appellate Assistant Commissioner on a careful and detailed examination of the facts, held thus :

"Unity of management :

Each of the above production units is deemed for the purpose of internal assessment, as a single operational unit directed under the policy framework laid down by the corporate Board of Hindustan Machine Tools Ltd. The unit management, headed by a general manager (now designated executive director) is accountable for the fulfilment of plans and targets of the unit as a whole,

composed of its production divisions.

Unity of finances :

Expenses are commonly incurred at each unit covering all divisions, but for purposes of internal assessment, monthly allocations are made between different divisions. There is only cash in-flow and out-flow and it is left to the unit management to adjust cash between the different divisions as situations demand. Thus, there is free intermingling of finance and unity of overall control of head office at Bangalore. Cash flow and fund flow is mainly and essentially controlled at the head office and there is free interchange of such cash and funds amongst all units particularly amongst divisions of each unit. Thus, a shortfall of funds in one unit will be made good by diverting funds from another unit where surplus funds may be available. Even capital funds are raised by the corporate head office and provided to the divisions/units. All these clearly establish the total and complete interlacing, interdependence and interconnection and unity of financial management of Hindustan Machine Tools Ltd. as a whole and so is in the unit level also.

Unity of administration :

Administratively, there is total integration and unity, with one common general manager/executive director being at the helm of affairs of each unit. The employees of each unit, although employed in different divisions thereof, are bound by a common set of rules and procedures and are also governed by common service conditions. There is free interchange of personnel from one division to another and from one unit to another. Inter-divisional transfer of employees is permitted on a large scale depending on the work load and job requirements, and, to a lesser degree, amongst different units.

For purposes of the Payment of Bonus Act, 1965, each unit is considered as a separate establishment whereby the quantum of bonus is uniformly fixed for all employees of the unit regardless of there being separate divisions. Thus, unity of administrative control is clearly evident in Hindustan Machine Tools Ltd. as a whole as also at the unit level.

Unity of production :

There is interlacing and interdependence of production capacity between the divisions of each unit whereby, if the capacity of one division/unit is under utilised, that capacity is utilised for purposes of other divisions.

Thus, as shown above, there is total and complete unity, interlacing, interdependence and interconnection of management, financial, administrative and production aspects, amongst all divisions of each unit and amongst all units of Hindustan Machine Tools Ltd. as a whole."

3. On an independent examination, the Tribunal had concurred with these findings of the Appellate Assistant Commissioner. In concurring with these

findings, the Tribunal had applied the ratio in B.R. Limited Vs. V.P. Gupta, Commissioner of Income Tax, Bombay, , and its own earlier decision in ITA No. 673/Bang/1975-76 which was the subject of a reference before this court in Commissioner of Income Tax Vs. Indian Telephone Industries Ltd., (infra) (ITRC No. 265 of 1978 decided on August 17, 1984), by a Division Bench of this court consisting of K. Jagannatha Shetty J. (as his Lordship then was) and S. A. Hakeem J which had upheld that decision.

4. Sri K. Srinivasan, learned senior standing counsel appearing for the Revenue, had not shown any good ground to take a view different from the one taken by the Tribunal in this case and this court in Commissioner of Income Tax Vs. Indian Telephone Industries Ltd., . For all these reasons, we answer the question referred to us in the affirmative, against the Revenue and in favour of the assessee. But, in the circumstances of the case, we direct the parties to bear their own costs.