(1995) 11 RAJ CK 0070

In the Rajasthan High Court

Case No : DB IT Ref. No. 94 of 1995, 28th November, 1995

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

JASRAJ. — RESPONDENT

Date of Decision : 28-11-1995

Acts Referred:
Income Tax Act, 1961 — Section 256, 43B

Citation : (1996) 132 CTR 441

Hon'ble Judges : B. R. Arora, J

Bench : Division Bench

Judgement

B. R. ARORA, J :

The Tribunal, Jaipur Bench, Jaipur for the asst. yr. 1985-86 referred the following question of law under s. 256(1) of the IT Act for the opinion of the High Court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was legally justified in holding that the unpaid sales-tax of Rs. 56,753 and mandi tax of Rs. 14,650 are not disallowable under s. 43B of the Act if the same are paid within the prescribed time in respective laws ?"

2. The material facts, on the basis of which the above question of law is to be decided are similar to those in DB IT Ref. No. 9 of 1992, Commissioner of Income Tax Vs. Achaldas Dhanraj and Sanklecha Brothers, The question referred for the opinion of the High Court is identical with the questions which were referred in DB IT Ref. No. 9 of 1992. While answering the reference in DB IT Ref. No. 9 of 1992 CIT vs. Achaldass Dhanraj (supra) this Court held as under :

"The Tribunal was justified in directing that the amount of unpaid sales-tax liabilities to the last date of previous year could not be disallowed if it is found to have been paid subsequently, within the time allowed under the relevant Sales-tax Act. The proviso to s. 43B for that purpose is to be interpreted as clarificatory and applicable to the assessment years from 1984-85 to 1987-88."

3. For the reasons given in DB IT Ref. No. 9 of 1992 CIT vs. Achaldass Dhanraj (supra) decided on 27th March, 1995, the question referred is answered in favour of the assessee and against the Revenue.

4. Consequently, the reference is answered in favour of the assessee and against the Revenue and it is held that the Tribunal was legally justified in holding that the unpaid sales-tax of Rs. 56,753 and mandi tax of Rs. 14,650 are not disallowable under s. 43B of the Act if the same are paid within the prescribed time in respective laws.