(2002) 07 RAJ CK 0035

In the Rajasthan High Court

Case No : IT Reference Application No. 61 of 1995 9 July 2002

Commissioner of Income Tax APPELLANT

Vs

Jindal and Jindal RESPONDENT

Date of Decision : 09-07-2002

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

Citation : (2002) 124 TAXMAN 482

Hon'ble Judges : Y.R. Meena, J;Shashi Kant Sharma, J

Bench : Full Bench

Advocate : Anuroop Singhi, for the Appellant;

Judgement

On an application filed u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act''), the Tribunal has referred the following question for our opinion :

"Whether, on the facts and in the circumstances of the case, the Tribunal was legally justified in taking the view that no disallowance u/s 43B should be made in respect of sales tax amount which has been paid within the time allowed under the relevant sales tax law, although after the close of the previous year of the assessee relevant to the assessment years 1986-87 and 1987-88 ?"

2. None appeared for the assessee. Heard the learned counsel for the revenue. The learned counsel for the revenue fairly admits that now the issue is concluded by their Lordships of the Hon''ble Supreme Court in the case of Allied Motors (P.) Ltd. Vs. Commissioner of Income Tax, Delhi, wherein their Lordships have held that if the sales tax is not paid by the end of the accounting year, but paid within the period allowed in the Sales Tax Act, that should be allowed as deduction in the relevant accounting year.

3. Following the view taken by their Lordships, we find no infirmity in the view taken by the Tribunal.

4. In the result, we answer the question in affirmative, i.e., in favour of the assessee and against the revenue.

5. Reference so made stands disposed of accordingly.

