
(2001) 02 AP CK 0116
In the Andhra Pradesh High Court
Case No : R.C. No. 112 of 1991

Commissioner of Income Tax

APPELLANT

Vs

K.C.P. Ltd.

RESPONDENT

Date of Decision : 13-02-2001

Acts Referred:

Income Tax Act, 1961 — Section 35C, 40A(2)
Income Tax Rules, 1962 — Rule 6A

Citation : (2001) 169 CTR 334 : (2001) 250 ITR 285 : (2001) 118 TAXMAN 538

Hon'ble Judges : S. Ananda Reddy, J; Bilal Nazki, J

Bench : Division Bench

Advocate : S.R. Ashok, for the Appellant; C. Kodanda Ram, for the Respondent

Judgement

Bilal Nazki, J.—The following question has been referred by the Tribunal to this court for an answer at the instance of the Revenue :

"On the facts and in the circumstances of the case was the Appellate Tribunal right in law in confirming the directions of the Commissioner of Income Tax (Appeals) to the Income Tax Officer to allow weighted deduction u/s 35C in respect of contribution made to the Cane Development Council, even though the latter was not a recognised authority u/s 35C of the Income Tax Act, 1961 ?"

2. In order to appreciate the controversy, Section 35C of the Income Tax Act (for short "the Act"), as it stood in the Act is reproduced :

"35C. (1) (a) Where any company or a co-operative society is engaged in the manufacture or processing of any article or thing which is made from, or uses in such manufacture or processing as raw material, any product of agriculture, animal husbandry, or dairy or poultry farming, and has incurred, after the 29th day of February, 1968, but before the 1st day of March, 1984, whether directly or through an association or body which has been approved for the purposes of this Section by the prescribed authority, any expenditure in the provision of any goods, services or facilities specified in Clause (b) to a person (not being a

person referred to in Clause (b) of Sub-section (2) of Section 40A) who is a cultivator, grower or producer of such product in India, the company or co-operative society shall, subject to the provisions of this section, be allowed a deduction of the amount of such expenditure incurred during the previous year.

(b) The goods, services or facilities referred to in Clause (a) are the following :

(i) fertilizers, seeds, pesticides, concentrates for cattle and poultry feed, tools or implements, for use by such cultivator, grower or producer ;

(ii) dissemination of information on, or demonstration of, modern techniques or methods of agriculture, animal husbandry, or dairy or poultry farming, or advice on such techniques or methods ;

(iii) such other goods, services or facilities as may be prescribed.

Explanation.--In computing the expenditure which is to be allowed as deduction under this section, the amount, if any, received by the company or co-operative society in consideration of, or as compensation for, such goods, services or facilities shall be deducted.

(2) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure of the nature specified in Sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year."

3. A bare perusal of the section shows that in two sessions the deductions can be allowed. Deductions can be allowed if the expenditure is spent for the identified purposes by the assessee directly. Secondly, deductions can also be allowed, if the expenditure is incurred through an association or body which has been approved for the purposes of Section 35C by the prescribed authority. (In terms of Rule 6A of the Income Tax Rules, the Secretary, Agriculture, Government of India has been nominated as the prescribed authority under this section). Admittedly, the assessee had contributed towards Cane Development Council and this Council was not an approved association or body in terms of Section 35C of the Act read with Rule 6A of the Income Tax Rules. Therefore, no deductions could be allowed.

4. Learned counsel appearing for the assessee submits that whether the amount is spent directly or through a body, the ultimate purpose for which the money is spent has to be taken into consideration. We are afraid that this submission is beyond the scope of Section 35C of the Act and also beyond the scope of the question referred to us. Another submission made by learned counsel for the assessee is that the Tribunal had remanded the matter back for the purpose of ascertaining as to which expenditure had been incurred for specific purposes and the Department had accepted that whether the expenditure was incurred directly or indirectly it was the purpose which was paramount. This argument is misplaced and deserves to be rejected on the simple ground that it is not the purpose for which the amount is incurred that is paramount, but it is the method

by which that amount is incurred. The details of the amounts incurred may assume importance if they are incurred directly, but if they are incurred through an association, such details have no importance. Admittedly and factually the amounts have been advanced to a body which was not recognised and as such this argument has no force.

5. In the circumstances slated hereinabove, we answer the question in favour of the Revenue and against the assessee. However, the assessee shall be at liberty to take any other remedies, if available to him in law.