(1994) 04 PAT CK 0035

In the Patna High Court

Case No : Taxation Case No. 130 of 1979

Commissioner of Income Tax APPELLANT

Vs

Kharsawan Mineral Concern P. Ltd. RESPONDENT

Date of Decision : 05-04-1994

Acts Referred:
Income Tax Act, 1961 — Section 214

Citation : (1995) 213 ITR 270

Hon'ble Judges : K.S. Paripoornan, C.J;A.K. Ganguly, J

Bench : Division Bench

Advocate : K.K. Vidyarthy and S.K. Sharan, for the Appellant; None, for the Respondent

Judgement

1. At the instance of the Revenue, the Income Tax Appellate Tribunal, "A" Bench, Patna, has referred the following question of law for the decision of this court :

" Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the assessee was entitled to interest u/s 214 in respect of the amount paid by it on March 20, 1972 ?"

2. We heard counsel for the Revenue. The assessee-respondent is a company. The matter relates to the assessment year 1972-73. The accounting period ended on March 31, 1972. The assessment for the year 1972-73 was completed on January 30, 1974. The taxable income was assessed at a loss. Subsequently, the assessee filed an application to the Income Tax Officer that it had paid advance (income) tax in respect of the assessment year in question on which it had become entitled to receive interest u/s 214 of the Income Tax Act, 1961. As this interest had not been allowed to it the assessee requested that an order u/s 154 may be passed and the interest u/s 214 be allowed to it. The officer allowed a sum of Rs. 15,799 by way of interest for the amount paid by the assessee on December 30, 1971, March 20, 1972, and May 1, 1972. Subsequently, the Income Tax Officer realised his mistake and reported the matter to the Commissioner of Income Tax for initiating a suo motu revision u/s 263. The

Commissioner of Income Tax took the view that the interest u/s 214 of the Act could be allowed only for the payment made on December 30, 1971. He was of the view that the advance tax payable on March 15, 1972, paid only on March 20, 1972, and the last instalment of advance tax paid on May 1, 1972, would not be entitled to any interest. He, therefore, allowed interest only to the payment of Rs. 36,212 made on December 30, 1971. He withdrew the interest allowed for payments made on March 20, 1972, and May 1, 1972. The assessee took up the matter in appeal before the Appellate Tribunal, At that stage, the assessee gave up the claim for payment of interest in respect of payment made on May 1, 1972. However, the assessee pleaded that it was entitled to interest u/s 214 of the Income Tax Act in respect of the payment made on March 20, 1972, also. The Appellate Tribunal held that the assessee is entitled to payment of interest in respect of the advance tax paid on December 30, 1971, and March 20, 1972. It took the view that all payments made in the financial year by way of advance tax would be eligible for grant of interest u/s 214 of the Income Tax Act. It is thereafter at the instance of the Revenue that the Income Tax Appellate Tribunal, ''A'' Bench, Patna, has referred the question of law formulated hereinabove for the decision of this court.

3. Section 214 of the Act, as it stood at the relevant time, is as follows :

"(1) The Central Government shall pay simple interest at fifteen per cent. per annum on the amount by which the aggregate sum of any instalments of advance tax paid during any financial year in which they are payable under Sections 207 to 213 exceeds the amount of the assessed tax from the 1st day of April, next following the said financial year to the date of the regular assessment for the assessment year immediately following the said financial year, and where any such instalment is paid after the expiry of the financial year during which it is payable by reason of the provisions of Section 215, interest as aforesaid shall also be payable on that instalment from the date of its payment to the date of regular assessment :

Provided that in respect of any amount refunded on a provisional assessment u/s 141A, no interest shall be paid for any period after the date of such provisional assessment. "

4. Advance tax is payable on September 15, December 15, and the March 15 in the financial year. The Commissioner of Income Tax held that the amount paid by the assessee on December 30, 1971, is entitled to interest. The interest was denied for the payment of advance tax made on March 20, 1972, on the ground that the amount was not paid on the due date, but later, though within the financial year. We should remember that in making the final assessment and reckoning the amounts due and payable, interest is allowed u/s 214 of the Act from the first day of April of the next financial year. This is an indication to show that the financial year is taken as a unit and the amount paid during the financial year would be eligible for grant of interest u/s 214 of the Income Tax Act. Though the instalment of advance tax was not paid on the due date but a little

later, it does not lose its character as such because it was not paid on the due date, though paid before the end of the financial year. We are of the view that though advance tax due was not paid on the due date but was so paid within the financial year, it would continue to be payment of advance tax and the payment would be reckoned for the purpose of adjustment when final assessment is made. The payment made during the financial year is entitled to interest u/s 214 of the Act even though the payment was made after the prescribed date but during the financial year. The Appellate Tribunal was justified in holding so. The order of the Appellate Tribunal does not suffer from any error of law. We, therefore, answer the question referred to this court in the affirmative, against the Revenue and in favour of the assessee.

5. The reference is disposed of as above.

6. A copy of this judgment shall be forwarded to the Income Tax Appellate Tribunal, "A" Bench, Patna, under the signature of the Registrar and the seal of this court.

