(1987) 03 MP CK 0012

In the Madhya Pradesh High Court

Case No : M.C.C. No. 142 of 1985

Commissioner of Income Tax	APPELLANT
Vs	
Kumar Brothers	RESPONDENT

Date of Decision : 06-03-1987

Acts Referred:
Income Tax Act, 1961 — Section 256(2)

Citation : (1987) 168 ITR 206

Hon'ble Judges : R.K. Verma, J;G.G.Sohani, J

Bench : Division Bench

Advocate : R.C. Mukati, for the Appellant; S.C. Goyal, for the Respondent

Judgement

G.G. Sohani, J.—This is an application u/s 256(2) of the Income Tax Act, 1961, for directing the Tribunal to refer the following questions of law to this court for its opinion :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal is justified in allowing deduction for Rs. 20,000 by way of interest by holding that the liability pertains to the year under consideration ?

(2) Whether, on the facts arid in the circumstances of the case, the Tribunal is justified in holding that the above payment of interest is allowable in the year under consideration even though the assessee is maintaining accounts on the mercantile basis and the amount in question relates to the period earlier to the accounting year relevant to the assessment year under consideration ?"

2. The material facts giving rise to this application, briefly, are as follows :

In the accounting year in question, the assessee debited the amount of Rs. 39,576 as interest payable to the firm, M/s. Prem Brothers. In the immediately preceding year, provision of Rs. 5,100 only was made on account of interest payable to the said firm. During the assessment proceedings, the Income Tax Officer disallowed the sum of Rs. 20,000 out of the amount of interest on the ground that that amount related to the preceding year. Though the Appellate Assistant Commissioner had upheld the order passed by the Income Tax Officer, the Tribunal held that the claim of interest payable to the said firm was settled in the accounting year in question and, therefore, it was an expenditure which could be claimed in the assessment year. The Tribunal further held that the assessee had not claimed the amount of interest in the preceding year and that the Income Tax Officer had not doubted the genuineness of the assessee''s claim in respect of the liability of the assessee to pay interest in the assessment year in question. Under these circumstances, the Tribunal held that there was no justification for disallowing the amount of interest paid by the assessee in the assessment year in question. Aggrieved by the order passed by the Tribunal, the Revenue sought a reference but that application was rejected. Hence, the Revenue has made this application.

3. Having heard learned counsel for the parties, we have come to the conclusion that this application deserves to be dismissed. The Tribunal has affirmed the finding of the Income Tax Officer that the assessee''s claim in respect of its liability to pay interest in the assessment year in question was genuine. The Tribunal has further found that the claim for interest was settled in the assessment year in question. The Revenue has not sought reference on questions challenging the aforesaid findings of fact by the Tribunal. Under the circumstances, no question of law arises out of the order passed by the Tribunal.

4. The application, therefore, fails and is accordingly rejected. In the circumstances of the case, parties shall bear their own costs.