

(2007) 05 AHC CK 0096
In the Allahabad High Court

Commissioner of Income Tax

APPELLANT

Vs

Modi Industries Ltd.

RESPONDENT

Date of Decision : 02-05-2007

Acts Referred:

Income Tax Act, 1961 — Section 256

Citation : (2007) 05 AHC CK 0096

Hon'ble Judges : Sushil Harkauli, J; Ajai Kumar Singh, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. The following two questions have been referred in this case:

Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that a sum of Rs. 25,000/- spent on Managing Director's House was an allowable deduction by ignoring the material fact that the expenses never related to the assessee's business.

2. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in holding that a sum of Rs. 32,33,116/- being the excess price realised by the assessee on sugar was not a revenue receipt in the hands of the assessee company and as such, not taxable in its hands?

2. So far as the first question is concerned, it has been held in the order of the Tribunal dated 8.6.1983 that the same amount of Rs. 25,000/- had been claimed as deduction in the year immediately preceding, and the Tribunal had deleted the disallowance. It has also been held by the Tribunal that no distinguishing feature has been shown for the assessment year under consideration and, therefore, the earlier year's decision has been followed.

3. When the department has not challenged the earlier year's order, and had also not shown any distinguishing feature between the earlier year and the year

in question, and if the Tribunal has followed its decision for the earlier year, that too for a meagre amount of Rs. 25,000/- said to have been spent for maintenance of the managing director's house, we do not think any such error of law can be said to have been committed in the order of the Tribunal as would qualify for a reference u/s 256. We, therefore, decline to answer the first question referred.

4. So far as the second question is concerned, it is covered by a decision of a Division Bench of this Court in the case of C.I.T. v. Dhampur Sugar Mills (2005) 194 C.T.R.170 in favour of the assessee and against the department. No good reason has been shown to us from the department's side to take a different view. Accordingly, the second question is answered in favour of the assessee and against the department in the light of the aforesaid decision of a Division Bench of this Court.

5. Reference is disposed of finally.