(1990) 05 AHC CK 0027

In the Allahabad High Court

Case No : Income-tax Application No. 28 of 1989

Commissioner of Income Tax APPELLANT

Vs

Modipon Limited (No. 2) RESPONDENT

Date of Decision : 11-05-1990

Acts Referred:
Income Tax Act, 1961 — Section 256(2), 36, 37, 80VV

Citation : (1991) 189 ITR 478

Hon'ble Judges : B.P. Jeevan Reddy, C.J;R.K. Gulati, J

Bench : Division Bench

Final Decision : Partly Allowed

Judgement

1. By this application u/s 256(2) of the Income Tax Act, 1961, the Revenue is asking this court to refer the following eight questions :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in confirming the deletion by the Commissioner of

Income Tax (Appeals) of the disallowance of Rs. 2,43,780 relating to interest claimed by the assessee on borrowed money utilised in granting

interest-free advance ?

2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in confirming the order of the

Commissioner of Income Tax (Appeals) in allowing the deduction of Rs. 4,93,148 being disputed demand of excise duty on single filament yarn

used in the manufacture of double ply crimped ?

3. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in confirming the order of the

Commissioner of Income Tax (Appeals) allowing the deduction of Rs. 25,21,766 on account of excise duty liability on crimped stretch texturised

yarn ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in confirming the order of the Commissioner of

Income Tax (Appeals) allowing relief of Rs. 1,43,359 on the ground that the receipts on account of charity collections do not constitute trading

receipts ?

5. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in allowing Rs. 15,28,172 on

account of sole selling agency commission paid to M/s Synfibre Sales Corporation ?

6. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in allowing Rs. 78,533

disallowed by the Income Tax Officer with reference to the limits prescribed u/s 80VV of the Income Tax Act ?

7. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in upholding the order of the

Commissioner of Income Tax (Appeals) in allowing the expenditure incurred on bringing the dead body of the late Chairman from Bombay to

Modinagar, when the purpose of his visit to Bombay was purely personal and not connected in any way with the business activities of the company

?

8. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in allowing relief u/s 80J in

respect of unit ''B'' ?

2. We shall deal with each question separately.

Question No. 1.--An identical question was directed to be stated by this court u/s 256(2) of the Income Tax Act, vide Income Tax Application

No. 165 of 1987. Accordingly this question shall be stated.

Question No. 2.--An identical question was declined to be referred by this court in Income Tax Application No. 170 of 1986. Following the

same, this question is rejected.

Question No. 3.--In Income Tax Application No. 168 of 1987, this court declined to direct the Tribunal to state an identical question. Following the said order, this question is rejected.

Question No. 4. --In Income Tax Application No. 165 of 1987, an identical question was declined by this court. This question is, accordingly,

rejected.

Question No. 5. --In Income Tax Application No. 74 of 1986, an identical question was declined. Accordingly, this question is rejected.

Question No. 6. --It is found as a fact that the amount concerned is not covered by Section 80VV of the Act as it was not spent in connection

with proceedings before the authorities under the Act. We do not see any substance in this question. It is, accordingly, rejected.

Question No. 7.--We do not think that there was any justification in the Commissioner of Income Tax (Appeals) not allowing the expenditure

incurred on bringing the dead body of the late chairman from Bombay to Modinagar. We do not think this question of law ought to be directed to

be stated.

Question No. 8.--An identical question was declined by this court in Income Tax Application No. 165 of 1987. Accordingly, this question is

rejected.

3. In the result, this Income Tax Application is allowed in part only to the extent of question No. 1 and rejected with respect to the other questions.

The Tribunal is, accordingly, directed to state question No. 1 aforestated for the opinion of this court u/s 256(2) of the Income Tax Act.