
(1987) 10 AHC CK 0010

In the Allahabad High Court

Case No : Income Tax R. Application No. 125 of 1985

Commissioner of Income Tax

APPELLANT

Vs

Modipon Ltd.

RESPONDENT

Date of Decision : 19-10-1987

Acts Referred:

Income Tax Act, 1961 — Section 256(2)

Citation : (1988) 171 ITR 658

Hon'ble Judges : R.M. Sahai, J;Om Prakash, J

Bench : Division Bench

Judgement

Om Prakash, J.—This is an application u/s 256(2) of the Income Tax Act, 1961, by the Revenue for asking the Tribunal to make a statement of the case on the following questions ;

" (i) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in deleting an addition of Rs. 41,500 in respect of charity included in the purchase price of cotton by payment of Rs. 2 per bale of cotton purchased ?

(2) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was correct in law in deleting the addition of Rs. 1,50,608 representing estimated interest at the rate of 10% on the debit balances outstanding in the accounts of 3 dealers of the assessee ? "

2. So far as the first question is concerned, that is fully covered by a decision of the Supreme Court in Commissioner of Income Tax (Central), New Delhi Vs. Bijli Cotton Mills (P.) Ltd., . The Income Tax Officer brought to tax a receipt of Rs. 41,500 being charity received at the rate of Rs. 2 per bale included in the purchase price of cotton. The Supreme Court has clearly held that charity of this type is not a revenue receipt. Therefore, the question is academic.

3. The facts relating to question No. 2 are that the Income Tax Officer estimated the interest on notional basis amounting to Rs. 1,50,608 at the rate of 10% on

the debit balances outstanding in the account of three dealers of the assessee-company. Detailed facts in this regard have been stated by the Commissioner of Income Tax (Appeals) in his order dated April 4, 1977, in para 70. The view of the Income Tax Officer was that the assessee gave credit facility to the three dealers for some extra commercial consideration and that was why he calculated interest on notional basis and brought to tax the same. The Commissioner observes :

" I do not find any evidence brought on record by the Income Tax Officer in support thereof. It is an admitted fact that the three dealers are the major dealers of the assessee and their annual sales turnover runs into several lacs of rupees. Again, the assessee has pointed out that during the year of appeal, it had huge surplus funds and that it has earned interest of over Rs. 20 lacs on its bank deposits whereas it has paid only a sum of Rs. 13,020 on its overdraft account with the bank."

4. The Commissioner further observes :

" Again, it was submitted that had the assessee not allowed credit facilities to the three dealers, either its turnover would have been lower or the price realisation would have been less or both."

5. Relying on these findings, the Income Tax Appellate Tribunal came to the conclusion that the Income Tax Officer was not right in estimating the interest income notionally. These are purely findings of fact and no question of law arises therefrom.

6. For the above reasons, we do not agree with the Revenue that question No. 2 is a question of law. The application is, therefore, rejected and the same is dismissed.