(2001) 07 P&H CK 0041

In the Punjab And Haryana At Chandigarh

Case No : IT Case No. 120 of 1996 24 July 2001 & Income-tax Case No. 120 of 1996

Commissioner of Income Tax		APPELLANT
	Vs	
Pardeep Jain		RESPONDENT

Date of Decision : 24-07-2001

Acts Referred:
Income Tax Act, 1961 — Section 256(2), 32, 37

Citation : (2002) 257 ITR 193

Hon'ble Judges : Jawahar Lal Gupta, J;Ashutosh Mohunta, J

Bench : Division Bench

Advocate : Rajesh Bindal, for the Appellant; A.K. Mittal, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The Revenue has filed this petition u/s 256(2) of the Income Tax Act, 1961. It claims that the following two questions of law arise for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal is right in law in deleting the disallowance of Rs. 55,271 confirmed by the learned Commissioner of Income Tax (Appeals) on account of alleged job charges paid to Sh. Sandeep Jain, son of the assessee ?

2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is right in law in allowing depreciation of Rs. 51,238 holding that the machinery purchased on March 31, 1988, from Ashoka Brothers Impex Ltd. for Rs. 1,65,984 was put to use on the same day at Ludhiana ?"

Learned counsel for the parties have been heard.

A perusal of the orders passed by the authorities show that the respondent-assessee had shown a payment of Rs. 55,271 to Sandeep Jain, his son. It has been found by the Tribunal that the assessee is engaged in the manufacture of wood work machines. He had shown total sales at Rs. 45,64,416. His son, Sandeep Jain, is a qualified engineer. He had been working for the past three years. On the basis of this evidence, the assessee''s claim for deduction of an amount of Rs. 55,271 has been sustained. It is a pure finding of fact based on appreciation of the evidence adduced during the proceedings. No question of law arises.

With regard to the second question, it has been claimed by the Revenue that the machine was purchased installed and allegedly used on March 31, 1988. On this basis, a depreciation of Rs. 51,328 has been wrongly allowed.

On a perusal of the order passed by the Tribunal, we find that the machinery was purchased from Ashoka Brothers Impex Ltd., New Delhi. A certificate from the company was produced. It was certified that the mechanic had successfully installed the machine and put it into operation. He has stayed at the factory premises for eight hours to supervise the commissioning and its operation. On the basis of the evidence, a finding has been recorded that "the mechanic came from the supplier''s place and he stayed for eight hours at the factory premises of the assessee and commissioned the machine". Even an amount of Rs. 4,000 had been paid for the installation and commissioning of the equipment. The finding is based on appreciation of the evidence.

Mr. Bindal contends that the equipment had reached Ludhiana at 2.40 p. m. on March 31, 1988. Thus, it could not have been put to use on the same day. There is, however, no evidence to show that it was not actually commissioned on March 31, 1988. In this view of the matter, we find that no ground for interference with the view taken by the Tribunal is made out. No question of law which may require the opinion of this court arises.