(1985) 01 AP CK 0017

In the Andhra Pradesh High Court

Case No : Referred Case No. 6 of 1979

Commissioner of Income Tax APPELLANT

Vs

Praga Tools Ltd. RESPONDENT

Date of Decision : 22-01-1985

Acts Referred:
Income Tax Act, 1961 — Section 37, 37(1)

Citation : (1985) 49 CTR 269 : (1986) 157 ITR 282

Hon'ble Judges : P.A. Choudhary, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : M.S.N. Murthy, for the Appellant; Y. Ratnakar, for the Respondent

Judgement

P.A. Choudary, J.—This is a reference at the instance of the Revenue u/s 256(1) of the Income Tax Act, 1961. The assessee, M/s. Praga Tools Limited, Secunderabad, had incurred what is called "development expenditure" for the assessment years 1967-68 to 1972-73 for designing and perfecting models so that it may be able to carry out the manufacturing contracts it had entered into with its customers. This expenditure has been incurred over a number of years by the assessee and was shown by the assessee in its books as development expenditure relating to each contract and was written off over the period of years covering the contract. The assessee had also incurred expenditure relevant to the assessment years 1970-71 to 1972-73 with regard to the consultancy services it had obtained from the National Productivity Council, Administrative Staff College and the Engineering Management and Foundry Consultants, Bangalore. In the assessment year 1970-71, it had incurred an expenditure of Rs. 93,377 by way of payment made to the National Productivity Council for obtaining advice for improving the manufacturing process in machinery tools accessory division, machine tools section, defence cell, precision engineering items and forge shop and foundry. During the assessment year 1971-72, the assessee had incurred an expenditure of Rs. 74,400 paid as fees to the Administrative Staff College for obtaining consultancy advice on measures towards installation and development of an integrated operational control system based on accumulation, collation and analysis of basic operation data to be utilised for planning and control in the areas of production, materials, costing and strategic decision-making so that the system could be introduced initially on a manual basis, simulating the mechanised system, within a limited area of the company''s operations during the initial stage of the assignment and expanded into a more comprehensive computerised system at the appropriate time. The Administrative Staff College was also required to suggest structural changes in the organisation to make the above system effective by suggesting creation of new positions and the introduction of fresh skills. In the assessment year 1971-72, the assessee had also incurred an expenditure of Rs. 29,471 paid as fee to the Engineering Management and Foundry Consultants, Bangalore, and obtained consultancy advice to improve the quality of some of its products and to gear up the manufacture of higher grade castings and, for that purpose, it sought the consultancy advice on the question of modernising its foundry. In the assessment year 1972-73, for similar consultancy service, it paid Rs. 13,737 to the Engineering Management and Foundry Consultants, Bangalore. Now, the assessee has claimed these items of expenditure as revenue expenditure deductible u/s 37 of the Income Tax Act during the relevant years. The Income Tax Officer has rejected the claim and held the expenditure to be capital expenditure and, therefore, not deductible. In the appeals preferred by the assessee against that decision, the Appellate Assistant Commissioner agreed with the contention of the assessee and held the expenditure to be revenue expenditure. With that view of the Appellate Assistant Commissioner the Tribunal had concurred and at the instance of the Revenue, the above two questions have been referred for the opinion of this court.

2. We are of the opinion that the amount which were expended by the assessee in this case should be regarded as revenue expenditure. The facts would show that the so-called development expenditure incurred by the assessee during the assessment years 1967-68 to 1972-73 is no more than expenditure which has been incurred by the assessee for the purpose of preparing and perfecting designs which are required with reference to the execution work of specific contracts of those years. The expenditure incurred in connection with the execution of those specific contracts cannot, therefore, be said to be an expenditure incurred for acquiring an asset of enduring nature. They are both in design and in purport the expenditure incurred only towards the execution of those contracts. We, therefore, have no hesitation in saying that the so-called development expenditure incurred for the assessment years 1967-68 to 1972-73 is only a revenue expenditure. The argument that the assessee himself has treated that expenditure as capital expenditure cannot be decisive in finding out the true nature and character of the expenditure incurred by the assessee. For these reasons, we hold that the development expenditure had been rightly held by the Tribunal to be revenue expenditure only.

3. Similarly, the amounts paid to the consultancy firms also cannot be regarded

as expenditure incurred in acquiring any asset of enduring nature. The amount paid to the National Productivity Council was paid for the benefit of increasing the manufacturing efficiency and formulating incentive schemes. In an age of speedy technological progress, no degree of permanency can be attached to these opinions given by the firms like the National Productivity Council on how to increase the production. They are all susceptible to modifications and alterations. For that reason, we cannot hold that the fee paid to the National Productivity Council should be regarded as an expenditure incurred for acquiring a capital asset. So is the case with the amounts paid to the Administrative Staff College and so is the case with the amounts paid to the Engineering Management and Foundry Consultants of Bangalore. In fact, on the basis of the statement of this case, it is almost impossible to say, with any degree of certainty, as to what is the advice tendered by the firms and what percentage of it is accepted and implemented and can endure indefinitely. We, therefore, answer both the questions referred to us against the Revenue and in favour of the assessee, agreeing with the opinion of the Tribunal. The questions are answered accordingly holding that the expenditure incurred is revenue in nature. The Revenue shall pay the costs.