(2003) 08 RAJ CK 0028

In the Rajasthan High Court

Commissioner of Income Tax — APPELLANT

Vs

Rajasthan State Mineral development Corp. — RESPONDENT

Date of Decision : 23-08-2003

Acts Referred:
Income Tax Act, 1961 — Section 256(1), 30, 31, 32, 33

Citation : (2003) 08 RAJ CK 0028

Judgement

1. On an application u/s 256(1) of the Income Tax Act, 1961, the Tribunal has referred the following question for our opinion:-

"Whether, on the facts and in the circumtances of the case, the Tribunal was right in holding that a sum of Rs.19,77,436 was for business, particularly in the light of the letter of the Union read with the Report of the Directors"

2. The Assessee-Company claimed deduction of ex-gratia payment of Rs.19,77,436 to its employees during the assessment year 1985-1986. The Assessing Officer has negatived the claim as assessee suffered loss and no outstanding performance has been shown. In appeal before the CIT (Appeals), the CIT (Appeals) also held that the amount is not for the purpose of business.

3. In appeal before the Tribunal, the Tribunal has considered the report of the Directors for the payment in question and considering the reason given for the payment of ex gratia bonus, the Tribunal held that the amount was paid for the purpose of business and it was allowed.

4. Heard learned Counsel for the parties.

5. The fact is not in dispute that the amount being paid to the workers of the Assessee Corporation. The provisions of section 37 of the Income -tax Act, 1961 provides that the expenses which are not covered by sections 30 to 36, and if they are wholly and exclusively for the purpose of business, that can be allowed u/s 7 of the Act. While making the payment to the workers, the relevant facts, which have been taken into account is reproduced herein below for the ready reference: -

" It is a matter of great pleasure that the harmony of industrial relations was crucial and in the main, instrumental in carrying out the closing operations of the four mines of Mandokipal smoothly inspite of the involvement of retirement of as many as 529 workers, the Management kept up its commitments in all matters, such as revisions of VDA/DA rates on the pattern of State Govt. employees and rise in wages of daily rated workers in terms of the agreement with the Workers Union. Production based incentive scheme operated during this year as well. As a measure of good gesture, the payment of Bonus and ex gratia is being retained at 20% inspite of substantial losses incurred during the year."

6. If the payment has been made to run the business, which is necessary to run the business the payment is for the purpose for business. It is also pertinent to note tat the Assessee Corporation is a Public Undertaking of the State. The payment has not been made to any friend or relation of the Directors. The payment has been made to the workers with the commercial expediency.

7. We therefore agree with the view of the Tribunal that the payment has been made with the object to run the business. The payment of ex gratia bonus is for the purpose of business and that should not be disallowed. In view of the aforesaid facts, in our view, there is no infirmity in the order of the Tribunal.

8. In the result, we answer the reference in affirmative i.e. in favour of the Assessee and against the revenue.

9. The Reference so made stands disposed of accordingly.