(1995) 11 RAJ CK 0032

In the Rajasthan High Court

Case No : DB IT Ref. No. 66 of 1995, 22nd November, 1995

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

RODAJI DEEP CHAND. — RESPONDENT

Date of Decision : 22-11-1995

Acts Referred:
Income Tax Act, 1961 — Section 256, 43B

Citation : (1996) 132 CTR 15

Hon'ble Judges : B. R. Arora, J

Bench : Division Bench

Judgement

B. R. ARORA, J. :

The Tribunal, Jaipur Bench, Jaipur for the asst. yr. 1986-87 referred the following question of law under s. 256(1) of the Act for the opinion of the High Court :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the unpaid sales-tax liability if paid within time allowed under Sales-tax Act although after the end of previous year of assessee, should not be disallowed by invoking provisions of s. 43B of the IT Act, 1961 ?"

2. The material facts on the basis of which the above questions of law are to be decided are similar to those in DB IT Ref. No. 9/92, CIT vs. Achaldass Dhanraj decided on 27th March, 1995 [reported at Commissioner of Income Tax Vs. Achaldas Dhanraj and Sanklecha Brothers, The question referred for the opinion of the High Court is identical with the question which were referred in DB IT Ref. No. 9/92. While answering the reference in DB IT Ref. No. 9/92 CIT vs. Achaldass Dhanraj (supra) this Court held that :

"The Tribunal was justified in directing that the amount of unpaid sales-tax liabilities to the last date of previous year could not be disallowed if it is found to have been paid subsequently, within the time allowed under the relevant Sales-tax Act. The proviso to s. 43B for that purpose is to be interpreted as clarificatory and applicable to the assessment years from 1984-85 to 1987-88."

3. For the reasons given in DB IT Ref. No. 9/92 CIT vs. Achaldass Dhanraj (supra) decided on 27th March, 1995 the question referred is also answered in favour of the assessee and against the Revenue.

4. Consequently, the reference is answered in favour of the assessee and against the Revenue and it is held that the Tribunal was justified in holding that unpaid sales-tax liability, if paid within time allowed under Sales-tax Act although after the end of previous year of assessee, should not be disallowed by invoking the provisions of s. 43B of the IT Act, 1961.