(2002) 10 MAD CK 0153

In the Madras High Court

Case No : Tax Case No. 17 of 1998 7 October 2002

Commissioner of Income Tax APPELLANT

Vs

Soft Beverage (P) Ltd. RESPONDENT

Date of Decision : 07-10-2002

Acts Referred:

Citation : (2003) 129 TAXMAN 227

Hon'ble Judges : R. Jayasimba Babu, J;R. Jayasiha Babu, J;K. Raviraja Pandian, J

Bench : Full Bench

Advocate : J. Nareshkumar, for the Revenue P.P.S. Janaradhana Raja, for the Assessee, for the Appellant;

Judgement

K. Raviraja Pandian, J.

The question referred is,

"Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in holding that the increase in the credit balance in the deposit on containers account should not be regarded as partaking the character of the trading receipts of the assessee ?"

The assessment year is 1987-88.

2. The assessee is a company engaged in the manufacture of soft drinks in the name of Torino. In the assessment proceedings, the assessing officer found that there was increase in the security deposit in respect of bottles and crates, and the assessee also has claimed depreciation in respect of those bottles and crates and on that score, the assessing officer treated the receipt as a trade receipt.

3. On appeal, the Commissioner of Appeals confirmed the same. However, the Tribunal rejected the views taken by the assessing officer and following the earlier decision of the assessees own case has accepted the contention of the assessees. Hence, the assessment now referred to.

4. The question similar to the one of the present case has been considered by this court in the case of Commissioner of Income Tax Vs. Madurai Soft Drinks (P.) Ltd., and this court held that the deposit so received by the assessee required to be returned as and when the bottles were returned and the finding of the Tribunal that such deposit did not constitute the income of the assessee as correct, and thereby answered the question in favour of the assessee, and against the revenue.

5. Following the decision as stated above, the question referred to us in the present case is also answered in favour of the assessee, and against the revenue.