(1995) 11 RAJ CK 0015

In the Rajasthan High Court

Case No : DB IT Ref. No. 121 of 1995, 28th November, 1995

COMMISSIONER OF INCOME TAX APPELLANT

Vs

SONI TRADERS. RESPONDENT

Date of Decision : 28-11-1995

Acts Referred:
Income Tax Act, 1961 — Section 256, 263, 43B

Citation : (1996) 133 CTR 309

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

Bench : Division Bench

Judgement

B. R. ARORA, J. :

The Tribunal, Jaipur Bench, Jaipur, for the asst. yr. 1987-88, referred the following question of law under s. 256(1) of the IT 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 unpaid sales-tax liability, if paid within time allowed under Sales-tax Act should not be disallowed by virtue of s. 43B and thus cancelling the order passed under s. 263 of the IT Act, 1961 ?"

2. The material facts, on the basis of which the above question of law is to be decided, is similar to those in DB IT Ref. No. 9 of 1992 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 was referred in DB IT Ref. No. 9 of 1992. While answering the reference in DB IT Ref. No. 9 of 1992 CIT vs. Achaldass Dhanraj (supra), this Court held as under :

"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 year from 1984-85 to 1987-88".

3. For the reasons given in DB IT Ref. No. 9 of 1992 CIT vs. Achaldass Dhanraj decided on 27th March, 1995 (supra), the question referred is 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 unpaid sales-tax liability, if paid within the time allowed under the Sales-tax Act should not be disallowed by virtue of s. 43B and the Tribunal was justified in cancelling the order passed under s. 263 of the IT Act, 1961.

