
(2002) 12 MAD CK 0134

In the Madras High Court

Case No : Tax Case (Reference) No. 143 of 1999 3 December 2002

Commissioner of Income Tax

APPELLANT

Vs

Textool Co. Ltd.

RESPONDENT

Date of Decision : 03-12-2002

Acts Referred:

Citation : (2003) 263 ITR 523

Hon'ble Judges : N.V. Balasubramanian, J;K. Raviraja Pandian, J

Bench : Full Bench

Advocate : Mrs. Pushya Sitharaman, for the Revenue P. P. S. Janardhana Raja, for the Assessee, for the Appellant;

Judgement

N.V. Balasubramanian, J.

The Tribunal has stated a case at the instance of the revenue and referred the following question of law in relation to the assessment year 1986-87 of the assessee :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in allowing depreciation on the capitalised amount payable in instalments, in respect of capitalised assets under the deferred payment scheme ?"

2. The assessee is a company and it has borrowed some loans under the deferred payment scheme. The assessee capitalised the future interest payable on loans availed of by the assessee and claimed depreciation on the capitalised value. The assessing officer in his assessment proceedings, did not allow the capitalisation of future interest payable in view of Explanation 8 to section 43(1) of the Income Tax Act (hereinafter referred to as "the Act"). The Commissioner (Appeals) on appeal allowed the appeal preferred by the assessee directing the assessing officer to allow depreciation on deferred payment guarantee interest capitalised. The Tribunal on appeal by the revenue also confirmed the view of the Commissioner (Appeals). Hence, the present reference.

3. Heard Mrs. Pushya Sitharaman, learned senior standing counsel for the revenue, and Mr. Janardhana Raja, learned counsel for the assessee. Learned counsel for the assessee submits that on the facts of the case the seller has issued the bill which is for the entire amount and, therefore, no part of the amount is referable to the interest and the assessee is entitled to capitalise the entire interest. We are unable to accept the submission of learned counsel for the assessee. Admittedly, the assessee has availed of loan facility for the purpose of purchasing machinery and the future interest payable was payable on the loan was capitalised. Though the seller of the machinery might have issued a bill for the consolidated amount including the principal as well as interest, we hold that in view of Explanation 8 of section 43(1) of the Act any amount paid as interest in connection with the acquisition of asset shall not be included and shall never be deemed to have been included as part of the actual cost of the asset. The words of Explanation 8 to section 43(1) of the Act are fairly wide to include any amount paid as interest in connection with the acquisition of an asset. Therefore, even if the seller has issued a consolidated bill, if the amount paid by the assessee represents the interest payment, then it is not open to the assessee to capitalise the same and claim it as a part of the actual cost of the machinery for the purpose of depreciation on the said amount. This court in *Coimbatore Pioneer Mills Ltd. Vs. Commissioner of Income Tax*, and *Commissioner of Income Tax Vs. India Pistons Ltd.*, has considered the scope of Explanation 8 to section 43(1) of the Act and held that the Explanation has been couched in the widest possible terms to avoid any further controversy in regard to the manner or mode of payment of interest or the time of payment for the interest. Following the said decisions of this court in the cases of *Coimbatore Pioneer Mills Ltd. (supra)* and *India Pistons Ltd. (supra)*, we answer the question of law referred to us in the negative, in favour of the revenue and against the assessee. However, in the circumstances of the case, there will be no order as to costs.

OPEN