(2001) 08 DEL CK 0010

In the Delhi High Court

Case No : Income-tax Reference No. 90 of 1983

Gangeshwar Ltd. APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

Date of Decision : 16-08-2001

Acts Referred:

Citation : (2002) 97 DLT 681 : (2002) 254 ITR 589 : (2003) 127 TAXMAN 588

Hon'ble Judges : Dr. Arijit Pasayat, C.J;D.K. Jain, J

Bench : Division Bench

Advocate : S.K. Aggarwal, for the Appellant; R.C. Pandey and Prem Lata Bansal, for the Respondent

Judgement

1. The following questions have been referred for the opinion of this court u/s 256(1) of the Income Tax Act, 1961 (in short "the Act"), by the Income Tax Appellate Tribunal, Delhi Bench-E (in short "the Tribunal").

"1. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the assessed was not entitled for weighted deduction1 u/s 35C on a sum of Rs. 2,74,201 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that the assessed was not entitled to weighted deduction u/s 35C read with Rule 6A on the expenses for road repairs directly incurred by the assessed amounting to Rs. 1,04,620 and his contribution for construction of new road in sides the five year plan amounting to Rs. 1,25,717 ?"

2. The dispute relates to the assessment year 1975-76.

3. The point in issue relates to agricultural development allowance u/s 35C of the Act. So far as the first question is concerned, it relates to expense relatable to aerial spray of insecticides. It was not disputed before the Tribunal that the said aerial spray of insecticides was done by the Cane Development Council on behalf of the assessed and other sugar cane factory owners, cane growers and the

Government of U. P. The question that arose was whether it could be said that the expense was incurred by the assessed directly or through an association or body which has been approved for the purpose of the provision by the prescribed authority. Admittedly, the Cane Development Council was not an association or body which has been approved by the prescribed authority for the purpose of the provision in question. The requirement is that the claim of weighted deduction is allowable when an expenditure is directly incurred. Therefore, the answer to the first question referred has to be in the affirmative, in favor of the Revenue and against the assessed. So far as the second question is concerned the expenditures are not covered by any of the prescribed conditions for entitlement to weighted deduction u/s 35C of the Act. Therefore, the answer to the second question is also in the affirmative, in favor of the Revenue and against the assessed.

4. The reference stands disposed of accordingly.