
(1993) 02 SC CK 0095

In the Supreme Court Of India

Case No : Civil Appeal No. 1860 Of 1977

Laxmi Devi Sugar Mills

APPELLANT

Vs

Commissioner of Income Tax, U.P.

RESPONDENT

Date of Decision : 18-02-1993

Acts Referred:

Income Tax Act, 1922 — Section 10(2), 10(5)
Income Tax Act, 1961 — Section 36(1)

Citation : (1993) 112 CTR 128 : (1993) 200 ITR 603 : (1994) 3 SCC 687 Supp

Hon'ble Judges : N. Venkatachala, J; B.P. Jeevan Reddy Reddy, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This appeal is preferred by the assessee against the judgment of the Allahabad High Court in income tax Reference No. 711 of 1973. The question which was referred to the High Court u/s 256(2) of the income tax Act was :

Whether, on the facts and in the circumstances of the case, the sum of Rs. 1,01,530 provided as bonus relating to the profits of the assessment year 1961-62 was an allowable deduction u/s 10(2)(x) of the Indian income tax Act, 1922 ?

2. The assessment year concerned is 1961-62, the relevant accounting year being the year ending on September 19, 1960. The workers had raised a dispute demanding bonus. The dispute was referred on September 7, 1960, to a committee formed for this purpose by the Government. A tripartite conference was proposed to be held in which the said issue was to be decided. On the basis of the recommendations of the said bodies, the Government issued a notification on December 23, 1960, declaring that the workers are entitled to bonus. This notification, it is evident, was issued after the closing of the said accounting year of the assessee and it is by this notification that the liability to pay bonus was created. During the accounting year relevant to the assessment year 1961-62, the assessee had made a provision in a sum of Rs. 1,01,530 towards bonus and

claimed deduction of the said amount in its assessment proceedings. Its claim was disallowed and it is this issue which was ultimately referred to the High Court.

3. The accounting year concerned herein is one prior to the coming into force of the Bonus Act. Therefore, there was no existing liability upon the assessee to pay bonus during the said accounting year. In other words, during the relevant accounting year, the liability to pay bonus had not fastened on to the assessee. The liability itself was created subsequent to the closing of the accounting year. In such a situation, merely because the assessee has made a provision for meeting such a contingent liability, it is not entitled to deduction of the said amount u/s 10(2)(x) read with Section 10(5) of the Indian Income tax Act, 1922. This is indeed the decision of this court in Commissioner of Income Tax, Madhya Pradesh, Nagpur and Bhandara Vs. Swadeshi Cotton and Flour Mills Private Ltd., . The same view has been taken in another decision of this court in Commissioner of Income Tax, Madhya Pradesh, Nagpur and Bhandara Vs. Kalyanmal Mills Limited, .

4. For the above reasons, the appeal fails and is dismissed.