(1997) 09 MAD CK 0164

In the Madras High Court

Case No : T.C. (R) No. 563 of 1989 (Revision No. 221 of 1989)

Sakthi Estates APPELLANT

Vs

State of Tamil Nadu RESPONDENT

Date of Decision : 03-09-1997

Acts Referred:
Income Tax Act, 1961 — Section 28

Citation : (1999) 238 ITR 175

Hon'ble Judges : R. Jayasimha Babu, J;Akbar, J

Bench : Division Bench

Advocate : Deokinandan, for the Appellant; K.M.L. Majele, for the Respondent

Judgement

R. Jayasimha Babu, J.—The only question raised before the Tribunal was regarding the extent to which interest should be allowed as a deduction for the assessment year 1987-88. The assessee had claimed deduction in the sum of Rs. 8,10,846.94, but the Assessing Officer allowed the deduction of Rs. 94,546.62 u/s 5(k) of the Tamil Nadu Agricultural Income Tax Act, 1955. He allowed a further sum of Rs. 3,84,737.67 u/s 5(e) of the Act. The assessee has come up in revision regarding the amounts disallowed by the Assessing Officer, which disallowance has been affirmed by the Appellate Assistant Commissioner and by the Tribunal.

2. The assessee contended before the Tribunal that what cannot be allowed u/s 5(k) would be allowed u/s 5(e). This argument is wholly untenable. The special provision is section 5(k). To the extent interest claimed is covered by that section having regard to the purpose of borrowing it is excluded from section 5(e). What has been disallowed because of this ceiling in section 5(k) cannot be allowed u/s 5(e). The other contention that had been put forth was that section 5(k) is limited to interest paid on borrowals of the previous year only, and does not cover interest paid on amounts borrowed in earlier years. This argument has been rejected and in our opinion rightly by the Tribunal. Section 5(k) does not stipulate that the borrowing in respect of which interest has been paid should

have been effected in the previous year, nor does it require that the expenditure from that borrowing should also have been effected in the previous year in order to entitle the assessee to claim deduction for interest paid on such borrowings. Interest paid on borrowings made in earlier years for the purposes covered by section 5(k) has necessarily to be considered u/s 5(k) and not u/s 5(e). What is to be allowed in one year u/s 5(k) cannot get enlarged to a larger sum in subsequent years even when the deductions claimed relate to the same borrowing.

3. We do not, therefore, find any error in the order of the Tribunal. The revision petition is dismissed. No costs.