

(1962) 11 MAD CK 0054
In the Madras High Court

S.B. Ranga Vilas Motors (Private) Ltd.	APPELLANT
Vs	
Industrial Tribunal and Another	RESPONDENT

Date of Decision : 27-11-1962

Acts Referred:

Citation : (1963) 2 LLJ 595

Hon'ble Judges : Veeraswami, J

Bench : Single Bench

Judgement

Veeraswami, J.—This petition is to quash an award of the industrial tribunal granting additional bonus on the basis of the total profit of Rs. 51,000 as arrived at by it. According to the profit and loss account filed before the tribunal the management showed a loss. But the tribunal added back three sums, one of Rs. 22,992 on account of miscellaneous expenses disallowed, another sum of Rs. 19,242 disallowed and added back under the head interest paid to creditors and a third sum of Rs. 4,200 disallowed and added back in respect of payment of remuneration to the managing director. So far as the last item is concerned, no question is raised in this Court. Adding the total sum of Rs. 46,433 the tribunal reached the figure of Rs. 51,000 as representing profit for purposes of determining the additional bonus. In doing so the tribunal clearly had in mind and applied the principle settled in what is known as the Full Bench formula.

2. Sri M. R. Narayanaswami for the petitioner contends that the tribunal having nowhere in its award found that the deductions made by the management in the profit and loss account had been made deliberately with a view to reduce the profits, it should have accepted the profit and loss account. In support reference is made to the The Associated Cement Companies Ltd., Dwarka Cement Works, Dwarka Vs. Its Workmen and Another, where the Supreme Court held:

As a general rule the amount of gross profits thus ascertained is accepted without submitting the statement of the profit and loss account to a close scrutiny. If however, it appears that entries have been made on the debit sides deliberately and mala fide to reduce the amount of gross profits, it would be

open to the tribunal to examine the question and if it is satisfied that the impugned entries have been made mala fide, it may disallow them.

3. It is true in this case the tribunal has not given a finding that the entries relating to deductions were made with a view to swell the quantum of deductions so as to reduce the quantum of profit. But a perusal of the award of the tribunal shows that that was what was in its mind. For instance, the tribunal observed:

If the account books are examined in regard to these items (office expenses such as tax, trunk call and postage, etc.), it will be seen that it is a jumble of all kinds of expenditure not relating to the office expenditure alone. Many of those entries show that in these items are included Tiffin and coffee expenses, Inam, bills and so on. It is very difficult to separate the items that are legitimate and the items that cannot be permitted to be deducted. In fact, the learned Counsel for the management agreed that at present it is not possible to trace every detail of expenditure and prove for what purpose it was incurred.

4. So far as the deduction on account of interest is concerned, the tribunal found that advance interest had been paid on borrowings during the year in question, 1959-60, and disallowed interest except what pertained to that year. In view of this position of the accounts, although the tribunal did not record a finding as is contemplated in the observations extracted from the judgment of the Supreme Court, I think It was justified in the particular circumstances in scrutinizing the accounts and disallowing the deductions I mentioned. The first point is therefore, rejected.

5. It is next argued for the petitioner that in any case the tribunal was in. error in calculating the profits for purposes of determining the additional bonus thus;

The items so far ordered to be added back would make a total of Rs. 46,434. To that must be added the surplus of Rs. 4,564, shown in the work sheet. That gives a total of Rs. 51,000.

This was the figure finally settled by the tribunal for purposes of arriving at the additional bonus to be awarded by it for 1959-60. Learned counsel for the petitioner appears, therefore, to be well-founded in his contention that in so far as the tribunal failed to take into account income tax that would be payable on the notional profit by adding this sum of Rs. 46,434 to the loss, the figure arrived at by the tribunal, namely, Rs. 51,000, should not be accepted. In *Madura Mills Company v. their workmen* 1961 I L.L.J. 502 the Supreme Court pointed out, by referring to the *The Associated Cement Companies Ltd., Dwarka Cement Works, Dwarka Vs. Its Workmen and Another*, that the calculation as to income tax has to be notional on the basis of the profit determined according to the formula. The award is, therefore, quashed. The tribunal will fix the net profit afresh after taking into account the income tax that would be payable on the notional profit and dispose of the reference as to the quantum of additional bonus payable to the workmen for 1959-60. The petition is allowed. No costs.