Cit Vs. U.P. Forest Corpn.

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Court : Allahabad

Decided On : Feb-23-2005

Reported in : [2005]148TAXMAN481(All)

Appeal No. : IT Reference No. 144 of 1989 23 February 2005

Appellant : Cit

Respondent : U.P. Forest Corpn.

Advocate for Pet/Ap. : A.N. Mahajan, *for the Revenue* S.P. Gupta, *for the Assessee.*

Judgement :
ORDER

1. The Income Tax Appellate Tribunal, Allahabad has referred the following three questions of law under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for opinion to this court :

'1. Whether on the facts and in the circumstances of the case, the Tribunal was justified, in law, in holding that the authorities below

had gone wrong in holding that the sales were not within the territorial jurisdiction of the State of U.P.

2. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law, in holding that the assessee-corporation was entitled to relief under section 10(20) of the Income Tax Act, 1961 and the additions were not liable to be made on this account?

3. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law, in treating the assessee-corporation's income as exempt under section 11 of the Income Tax Act, 1961 as taken in the additional ground of appeal before the ITAT?'

2. The reference relates to the assessment years 1979-80,1981-82 and 1982-83.

3. We have heard Shri A.N. Mahajan, the learned standing counsel for the revenue and Shri S.P. Gupta, the learned senior counsel for the respondent-assessee.

4. It is agreed between the learned counsel for the parties that the question Nos. 1 and 2 are to be answered in favour of the revenue and against the assessee in view of the decision of the Apex court in the case of CIT V. UP. Forest Corpn. : [1998]230ITR945(SC) .

5. So far as the 3rd question is concerned the Lucknow Bench of this court has considered the similar controversy in U.P. Forest Corpn. v. Dy. CIT (2003) 129 Taxman 527 wherein this court has held that the assessee is exempt under section 11(1) of the Act but the matter has been remanded to the Tribunal on certain issues. It has also been stated that both the department and the assessee have preferred special leave petitions against the order passed by the Lucknow Bench of this court before the Supreme Court which is pending.

6. We accordingly answer the first two questions in favour of revenue and against the assessee and 3rd question in favour of assessee subject to the observations made by the Lucknow Bench of this Court. There shall be no order as to costs.