Cit Vs. Ajmani Industries

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Court : Allahabad

Decided On : Feb-25-2005

Reported in : [2006]153TAXMAN43(All)

Appeal No. : IT Reference No. 58 of 1992 25 February 2005

Appellant : Cit

Respondent : Ajmani Industries

Advocate for Pet/Ap. : A.N. Mahajan, *for the Applicant.*

Judgement :
ORDER

By the Court

1. The Income Tax Appellate Tribunal, Allahabad has referred following question 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 learned Tribunal was, in law, justified in agreeing with the D.C. (Appeals) that the assessee firm is an industrial undertaking and the assessee was entitled to relief under section 80J of the Income Tax Act, 1961 ?'

The reference relates to the assessment year 1983-84.

2. The assessee is a rice miller and it has claimed for deduction under section 80J which was not allowed by the assessing authority as the assessee has failed to prove that more than 10 persons were engaged by it in manufacturing process. The said claim, however, has been allowed by the Assistant Appellate Commissioner as well as by the Tribunal.

3. Heard Sri A.N. Mahajan, learned counsel for the revenue. None has appeared on behalf of the assessee.

4. The Tribunal has recorded the following finding on the above issue:

'I have considered the submission of the learned departmental Representative and have gone through the impugned orders of the authorities below. In para 1 of the impugned order the Appellate Assistant Commissioner has specifically mentioned that more than 10 workers were engaged in the assessee's business and it was an Industrial Undertaking and the assessee was entitled for deduction under section 80J. The Appellate Assistant Commissioner has rightly placed reliance on the decision mentioned in para 1 of the impugned order. I do not find any force in the contention of the learned departmental Representative that the decision dated 2-5-1986 for the assessment year 1981-82 is sub-judiced because he failed to give details of that order and he also failed to file copies of the relevant orders and also failed to cite that T.T.A. No., so that it can be said that the order if sub-judice. For want of these details the submissions of the departmental Representative carries no weight. In view of the facts mentioned by the authorities below, I agree with the Appellate Assistant Commissioner that the assessee-firm is an industrial undertaking and accordingly relief under section 80J was rightly allowed following the ratio of the decision mentioned in para I of the impugned order. His finding is accordingly upheld.'

This court in CIT v. Sultan & Sons Rice Mill : [2005]272ITR181(All) had held that various processes starting from purchase of raw material and till sale of finished goods formed the integral part of manufacturing process and the workers employed in this process are the workers employed in the manufacturing process.

5. Respectfully following the aforesaid judgment we are of the opinion that the Tribunal has committed no illegality in allowing deduction under section 80J of the Act.

6. We, therefore, answer the question in affirmative i.e. against the department and in favour of the assessee. There shall be however no order as to costs.