Cit Vs. Dr. Devinder Kumar Modi

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Court : Delhi

Decided On : Feb-13-2003

Reported in : [2003]130TAXMAN583(Delhi)

Appeal No. : IT Ref. No. 54 of 1995 13 February 2003

Appellant : Cit

Respondent : Dr. Devinder Kumar Modi

Advocate for Pet/Ap. : Ms. Prem Lata Bansal and; Ajay Jha, for the Revenue; Santos

Judgement :

D.K. Jain, J.

At the instance of revenue, the Income Tax Appellate Tribunal, New Delhi has referred under section 256(1) of the Income Tax Act, 1961, the following question for our opinion :

'Whether, on the facts and in the circumstances of the case, the Tribunal was right in law to hold that in valuing the shares of Indofil Chemicals Limited as per rule 1D the actual tax liability on the basis of book profits is deductible and only the excess provision of taxation was not deductible ?'

2. As is evident from the format of the question, the issue involved is purely legal and, thereforee, we deem it unnecessary to state the facts. Suffice it to note that the controversy involved is as to whether while determining the market value of un-quoted shares of a company, as per the procedure prescribed in rule 1D of the Wealth Tax Rules, which amount as 'provision for taxation' made by the assessed in the balance sheet in the column 'liabilities' is to be treated as liability.

3. The issue is no more res integra. In Bharat Hari Singhania v. CWT : [1994]207ITR1(SC) , it has been held by the Apex Court that for the purpose of clause (ii)(e) of Explanationn II in rule 1D, only that amount will be treated as liability which is equal to the tax payable with reference to the book profits. Any excess over the said amount shall not be treated as liability.

4. In view of the said authoritative pronouncement, the view taken by the Tribunal cannot be faulted. Accordingly, the question referred is answered in the affirmative.