Commissioner of Surtax Vs. Dalmia Ceramic Ind. Ltd.

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Court : Delhi

Decided On : Aug-23-2001

Reported in : [2001]119TAXMAN479(Delhi)

Appeal No. : Surtax Reference No. 6 of 1984 23 August 2001

Appellant : Commissioner of Surtax

Respondent : Dalmia Ceramic Ind. Ltd.

Advocate for Pet/Ap. : Sanjeev Khanna and; Ajay Jha, for the Revenue,; Ms. Radha R

Judgement :

Arijit Pasayat, C.J.

Heard.

Following questions have been referred for opinion of this court at the instance of the revenue under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) by the Tribunal, Delhi Bench 'C' :

'1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the capital employed was not to be proportionately reduced by Rs. 2,111 under rule 4 of the Second Schedule to the Companies (Profits) Surtax Act, 1964 ?

2. Whether, on the facts and in the circumstances of the case, the Tribunal was correct in law in holding that the deductible amount of income-tax on the dividend income was to be determined with reference to the net dividend income (after relief under section 80M) and not on the gross dividend income ?'

The dispute relates to assessment year 1976-77.

2. Considering the answer given in respect of similar questions in IT Reference No. 329 of 1979, disposed of on 6-9-2000 and IT Reference No. 99 of 1980, disposed of on 2-11-2000, we answer the first question in the affirmative, in favor of the assessed and against the revenue. So far as the second question is concerned, the same is answered in favor of the revenue and against the assessed.

The application is disposed of.