Modi Spg. and Wvg. Mills Vs. Cit

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SooperKanoon Citation : sooperkanoon.com/710607

Court : Delhi

Decided On : Jan-31-2002

Reported in : [2002]123TAXMAN484(Delhi)

Appeal No. : IT Reference No. 440 of 1984 31 January 2002

Appellant : Modi Spg. and Wvg. Mills

Respondent : Cit

Advocate for Pet/Ap. : S.S. Aggarwal, for the assessed; Sanjeev Khanna and; Ajay J

Judgement :

The Tribunal has referred the following two questions for the opinion of the court in exercise of its power under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') :

'1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal erred in holding that the sum of Rs. 1,48,437 being expenditure incurred by the company on customers and clients in providing tea, snack, etc., at its various units was in the nature of entertainment expenditure within the meaning of section 37(2) of the Income Tax Act, 1961 ?

2. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in holding that the assessed was not eligible for the export

markets development allowance under section 35B of the Act in respect of expenditure of Rs. 11,23,227 incurred on freight and cartage for carrying the goods to their destination ?'

The mater relates to the assessment year 1975-76.

2. The learned counsels for the parties accepted that the first question is covered by a decision of the Supreme Court in CIT v. Pate Bros. & Co. Ltd. : [1995]215ITR165(SC) in favor of the assessed and against the revenue whereas the second question is covered by two decision of this court in Gedore Tools (India) (P) Ltd. v. CIT : [1998]233ITR712(Delhi) against the assessed and in favor of the revenue.

3. Following the aforementioned decisions, first question is answered in the affirmative, in favor of the assessed and against the revenue and the second question is answered also in the affirmative, in favor of the revenue and against the assessed.

4. Reference is accordingly disposed of.