Cit Vs. Pratap (Raj) Cooper Foils and Laminates Ltd.

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Court : Rajasthan

Decided On : Jul-04-2002

Reported in : [2002]124TAXMAN479(Raj)

Appeal No. : D.B. IT Reference No. 43 of 1995 4 July 2002

Appellant : Cit

Respondent : Pratap (Raj) Cooper Foils and Laminates Ltd.

Advocate for Pet/Ap. : Anuroop Singhi, *for the Revenue* A. Kasliwal, *for the Assessee*

Judgement :

On an application filed under section 256(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act'), the Tribunal has referred the following question for our opinion :

'Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in taking the view that the amendment introduced in section 43B by the Finance Act, 1989 has to be treated as retrospective and the amount of Rs. 36,019 is to be allowed as a deduction although it represented the sales tax collection made during the previous year and was paid only after the close of the previous year but before the due date for filing of sales tax return which was 30-6-1985 ?'

2. At the outset, the learned counsel for the assessee submits that now the issue is covered by the decision of the Hon'ble Apex Court in the case of Allied Motors (P) Ltd. v. CIT : [1997]224ITR677(SC) .

3. The learned counsel for the revenue, Mr. Singhi, has not controverted this fact that sales tax liability, which was due to be paid as required under the sales tax provision, that has been paid though beyond period of previous year.

4. Considering the submissions and following the view taken by their Lordships in the case of Allied Motors (P) Ltd. (supra), we find no infirmity in the order of the Tribunal.

5. In the result, we answer the question in affirmative, i.e., in favour of the assessee and against the revenue.

6. Reference so made stands disposed of accordingly.