Cit Vs. Gem Plastic (P) Ltd.

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SooperKanoon Citation : sooperkanoon.com/772528

Court : Rajasthan

Decided On : Aug-02-2002

Reported in : [2002]125TAXMAN40(Raj)

Appeal No. : D.B. IT Reference No. 23 of 1994 2 August 2002

Appellant : Cit

Respondent : Gem Plastic (P) Ltd.

Advocate for Pet/Ap. : Anant Kasliwal, *for the Revenue* J.K. Singhi and Anuroop Singhi, *for the Assessee*

Judgement :
ORDER

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, the Tribunal erred in law in holding that no disallowance was to be made under section 43B of the Income Tax Act, 1961 in respect of outstanding liabilities of ESI, PF and Rajasthan sales-tax (including surcharge) of Rs. 49,407 as the said liability had been discharged by the assessee within the time prescribed under the relevant Acts but not during the relevant accounting period ?'

2. The assessee is a private limited company which is engaged in the business of manufacture and sale of rigid P.V.C. pipes. During the course of the assessment, the assessing officer had noticed that the assessee had not made the payment of Rs. 49,407 relating to the ESI, RST and surcharge on RST within the period of the accounting year, and, therefore, he disallowed the deduction of this amount in the light of the provisions of section 43B of the Act.

3. Mr. Kasliwal, the learned counsel for the assessee, brought to our notice that the issue involved in the matter is covered by the decision of the Apex Court in Allied Motors (P) Ltd. v. CIT : [1997]224ITR677(SC) wherein their Lordships have taken the view that if the amount has not been paid by the end of the accounting year and paid within the period allowed by the Statute, the deduction of that amount should not (sic) be allowed.

4. In the question itself, the fact has been admitted that the amount in question has been paid within the time prescribed in the relevant Act. When the aforesaid amount has been paid within the period allowed in the respective statute, that amount does not hit by the provisions of section 43B, as such, no interference is called for in the present matter.

5. In the result, we answer the question in the negative, that the Tribunal has not erred in allowing the deduction in the aforesaid case, i.e., in favour of the assessee and against the revenue.