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Cit Vs. Ramawatar Rajkumar

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Court : Rajasthan

Decided On : Aug-02-2002

Reported in : [2002]125TAXMAN41(Raj)

Appeal No. : D.B. IT Reference No. 12 of 1995 2 August 2002

Appellant : Cit

Respondent : Ramawatar Rajkumar

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

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 was legally justified in holding the sales-tax liability should not be disallowed under section 43B, even if it is paid after the accounting year of the assessee but within the time allowed under the relevant Sales Tax Law ?'

2. The assessee is a registered firm. It had collected sales-tax but an amount of Rs. 1,80,045 remained unpaid by the end of the accounting year. The Income Tax Officer had disallowed the amount invoking the provisions of section 43B of the

Act. The Commissioner (Appeals) has also confirmed the view taken by the Income Tax Officer. In the appeal filed before the Tribunal, the Tribunal has followed the decisions in the cases of Escorts Ltd. v. Union of India (1991) 189 ITR 81, Sanghi Motors v. Union of India (1991) 187 ITR 703 and allowed the claim of the assessee.

3. None puts in appearance on behalf of the assessee.

4. We have heard Mr. J.K. Singhi, the learned counsel appearing on behalf of the revenue. Mr. Singhi fairly admitted that the issue involved in the instant reference has already been decided by their Lordships 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 be allowed.

5. 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, and as such, no interference is called for in the present matter.

6. 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.

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