

**Cit Vs. Dimensional Plastiglass Industries (P) Ltd.**

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**SooperKanoon Citation :** [sooperkanoon.com/772539](http://sooperkanoon.com/772539)

**Court :** Rajasthan

**Decided On :** Jul-04-2002

**Reported in :** [2002]125TAXMAN46(Raj)

**Appeal No. :** D.B. IT Reference No. 60 of 1995 4 July 2002

**Appellant :** Cit

**Respondent :** Dimensional Plastiglass Industries (P) Ltd.

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

**Judgement :**

ORDER

On an application 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 deleting addition made under section 43B notwithstanding the fact that the assessee did not make the payment of outstanding liability of sales tax of Rs. 97,498, ESI Rs. 640 and PF Rs. 3,025 during the previous year relevant to assessment year 1984-85 ?'.

2. The assessee is a Private Ltd. company which claimed liability of Rs. 97,498 on account of sales tax, Rs. 640 on account of Employees State Insurance and Rs.

3,025 on account of Employees Provident Fund. Though the assessee contended before the Commissioner (Appeals), that the amount was paid after due date as required under section 43B of the Act in appeal, before the Commissioner (Appeals), the Commissioner (Appeals) has allowed the claim. Following the decision of the Delhi High Court in the case of Sanghi Motors v. Union of India (1991) 187 ITR 703, the view taken by the Commissioner (Appeals) has been confirmed by the Tribunal.

3. None appeared for the assessee. Heard the learned counsel for the revenue.

4. The learned counsel for the revenue has not pointed out the fact that the amount in question has not been paid within the period permissible in the provisions of the respective Act. If the amount has not been paid in the financial year but before the last date provided in the provisions of their respective Acts. In such cases deduction should be allowed. Now the issue has been concluded by their Lordships in Allied Motors (P) Ltd. v. CIT : [1997]224ITR677(SC) wherein their Lordships held that if the amount is paid after accounting year but before due date permissible under the provisions of the respective Acts, it is deductible. In view of their Lordships decision, we find no reason to interfere in the findings arrived at by the Tribunal.

5. In the result, we answer the question referred to us in favour of the assessee and against the revenue. The reference so made stands disposed of accordingly.

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