Dy. Cit Vs. Madurai District Co-operative Spg. Mills Ltd.

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Court : Chennai

Decided On : Dec-04-2002

Reported in : [2003]129TAXMAN745(Mad)

Appeal No. : Tax Case No. 447 of 1999 4 December 2002

Appellant : Dy. Cit

Respondent : Madurai District Co-operative Spg. Mills Ltd.

Advocate for Pet/Ap. : Mrs. Pushya Sitharaman, *for the Revenue* R. Kumar, *for the Assessee*

Judgement :

K. Raviraja Pandian, J.

This appeal has been filed against the order of the Income Tax Appellate Tribunal, Madras 'A' Bench, in its order dated 23-11-1998 made in I.T.A. No. 680 (Mad) of 1990.

2. The question of law raised in the appeal is as follows

'Whether on the facts and in the circumstances of the case, the Appellate Tribunal is correct in law in allowing the deduction of Rs. 7,00,435 as revenue expenditure ?'

3. The assessment year involved is 1985-86. In a similar set of facts, in the assessee's own case, in respect of the assessment year 1988-89 in T.C. No. 47 of 1998 this court has remitted the matter back to the Tribunal on the ground that there was no materials produced as regards the moderanisation expenditure, expenditure on current repairs and replacement of worn out parts as contended by the assessee were made out in accordance with the instructions given by the Director of Handlooms. The assessee might be given an opportunity to place those instructions which had not been placed before the Tribunal. The Tribunal was directed to redetermine the issue after giving opportunity to the assessee. Following the earlier orders made by this court for that assessment year, we remit this case also to the Appellate Tribunal for reconsidering the issue on the basis of materials if any produced by the assessee. Accordingly, the order of the Appellate Tribunal is set aside and the matter is remitted back to the Tribunal for reconsidering the issue in terms of the order passed in T.C. No. 47 of 1998, dated 7-10-2002 by this court.