

# SUPREME COURT OF INDIA

Commr. of Income-tax, West Bengal-I, now West Bengal-II, Calcutta

Vs.

Indian Aluminium Co. Ltd.

C.A.No.861 of 1973

(H. R. Khanna, P. K. Goswami and P. S. Kailasam, JJ.)

25.01.1977

## JUDGEMENT

### **GOSWAMI, J.:-**

1. This appeal by the Commissioner of Income-tax, West Bengal, Calcutta, on certificate is from the judgment of the Calcutta High Court, since reported in Commissioner of Income-tax, West Bengal-I v. Indian Aluminium Co. Ltd., 88 ITR 257 = (1973 Tax LR 808) (Cal).

2. The facts appearing from the judgment are as follows:-

The Indian Aluminium Company Limited (hereinafter to be referred to as the respondent) was a manufacturer of aluminium ingots from ore. In the years prior to the assesment year 1960-61 in question the respondent had four manufacturing centres at Belur, Kalwa, Alupuram and Hirakud. In the accounting year relevant to the assesment year in question one more centre was established at

Muri and there were also extensions to the existing factories at Belur and Alupuram. In the assessment year 1960-61 the respondent claimed relief under Section 15-C of the Indian Income-tax Act, 1922 (briefly the Act) in respect of the fresh capital outlay at Muri as well as of the additional investments in the form of extensions to the existing factory premises, installation of new plant and machinery etc. at Belur and Alupuram. The Income-tax Officer refused to allow the relief and the Appellate Assistant Commissioner dismissed the respondent's appeal. On appeal to the Appellate Tribunal it held that during the previous year, the production of aluminium ingots went up by double, that the additional units set up by the respondent cost over Rs. 50 lakhs at Belur and about the same figure or a little more at Alupuram, that in view of the nature of the substantial investments, it could not be said that the units were not new industrial units by themselves. It further held that these units have been set up aside with the old ones and had added to the respondent's total output of a aluminium ignots. The Tribunal held that the respondent was entitled to the relief under Section 15-C. The Tribunal, however, at the instance of the Commissioner of Income-tax referred the following question to the High Court under Section 66 (2) of the Act:

"Whether, on the facts found by the Tribunal or on record and in the circumstances of the case, the Tribunal was justified in holding that Section 15-C of the Indian Income-tax Act, 1922, was applicable to the new production units added to the existing production units of the assessee at Belur, Alupuram and Muri in respect of buildings, plants and machineries and directing exemption to be granted under the aforesaid section accordingly?"

3. The High Court distinguished the decision of the same court in the Commissioner of Income-tax, West Bengal-I v. Textile Machinery Corporation, (1971) 80 ITR 428 (Cal) (briefly the Textile Machinery case) and answered the question in favour of the assessee (respondent herein). Hence this appeal by certificate.

4. This appeal as well as the two appeals (Civil Appeal Nos. 772-773 of 1972) by the assessee against the decision in the Textile Machinery case (Reported in (1971) 80 ITR 428 (Cal)) were argued together before us. It was submitted by the learned Additional Solicitor General as well as by Mr. Palkhiwala that our decision in the Textile Machinery case would govern this appeal as well.

5. We have to-day delivered our decision in the Textile Machinery case (Reported in 1977 Tax LR 434 (SC)) and allowed the claim of the assessee under S. 15-C of the Act. That decision will also govern this appeal. The appeal is, therefore, dismissed with costs.

Appeal dismissed.