

Commissioner of Income Tax

Vs

Cynamid India Ltd.

Civil Appeal Nos. 4403-4404 of 1996.

(S.B. Bhaurcha, R.C. Lahoti JJ)

13.04.1999

JUDGMENT

R.C. Lahoti, J.

1. In a reference under Section 256 of the Income-tax Act, 1961, the following three questions amongst others were answered by the High Court in favour of the assessee and against the Revenue :-

*For Assessment Years 1974-75 and 1975-76.*

4. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee was not entitled to deduction of Rs. 66,352/- plus Rs. 1,60,428/- for assessment year 1974-75 and Rs. 2,00,599/- for the assessment year 1975-76 under Section 35C of the Income Tax Act, 1961 ?

*For Assessment Year 1974-75.*

6. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee's claim for weighted deduction at 33 1/3% being export promotion expenses incurred from 1.12.1972 to 28.2.1973 and at 50% on Rs. 42,207/- being export promotion expenses from 1.3.1973 to 30.11.1973 ought not to be allowed ?

*For Assessment Year 1975-76.*

8. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the weighted deduction under Section 35B of the Income Tax Act, 1961 on only 50% of the amount of Rs. 20,706/- ought to be allowed ?

There were in all eight questions forming subject-matter of reference before the High Court and as to which the Revenue had filed these appeals. However, vide order dated 3.11.1995, this Court has entertained the appeals confined to abovesaid three questions only.

2. So far as question numbers 6 and 8 are concerned, at the very outset the learned counsel for the Revenue has very fairly stated that the quantum of revenue involved is very small and therefore the Revenue does not press the appeals to that extent. He has made his submissions confined to question No. 4 only.

3. Section 35C of the Income Tax Act, 1961 (as it stood during the assessment years 1974-75 and 1975-76) provided for deduction in respect of certain expenses referable to use as raw material of any product of agriculture etc. in manufacture or processing. The assessee manufactures an animal feed known as "AUROFAC" wherein rice husk is mainly used as raw-material. The deductions claimed by the assessee were in respect of the expenditure incurred by it in disseminating literature, pamphlets etc. containing information on modern techniques and methods of agriculture designed for increasing the yield of rice amongst the cultivators and farmers who grow rice. The Tribunal disallowed the deduction on the ground that the rice husk was not 'product of agriculture' because it was not a direct outcome of agricultural endeavour. According to the Tribunal what was produced by the cultivator was paddy which alone could be considered as an agricultural product. The husk was the result of process of dehusking which was not an agriculture.

4. The High Court has answered the question in favour of the assessee and against the Revenue. Having referred to the definition of 'agricultural product' in Black's Law Dictionary, the High Court has held that the operation of de-husking paddy is not an industrial or manufacturing operation as commonly understood; it is essentially an agricultural operation and such changes as are brought about in the product are an outcome of agricultural operation. Both rice and husk remain in their natural form as a result of de-husking and are covered by the term 'agricultural product'.

5. The High Court has also formed an opinion that Section 35C of the Income Tax Act, 1961 was designed to encourage development of agriculture and therefore gave a weighted deduction in respect of expenditure incurred in providing to the agriculturists services and facilities specified therein. The term 'agricultural product' or 'product of agriculture' is required to be construed liberally so as to include not merely the primary product as it actually grows, but also a product which undergoes a simple operation so as to make it more saleable or more useable. The rice and the husk though separated remain as they were produced and hence continue to be 'agricultural product' or 'product of agriculture'.

6. We find ourselves in entire agreement with the view taken by the High Court and hold the appeals filed by the Revenue devoid of any merit. The appeals are dismissed. No costs as respondent has not made appearance.