

ALLAHABAD HIGH COURT

Commissioner of Income Tax

Vs

Saran Engineering Company Limited

(B.P.Jeevan Reddy, C.J)

06.09.1990

JUDGEMENT

B.P.Jeevan Reddy, C.J.

(1.) THE Income-tax Appellate Tribunal has stated the following question under Section 256(1) of the Income-tax Act, 1961 : "Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was correct in allowing deduction of Rs. 1,50,729 being gratuity liability, though the amount was not settled under an irrevocable trust?"

(2.) FROM the order of the Tribunal, it appears that though no trust has been created by the assessee within the meaning of Section 36(1)(v), this amount was held payable by the petitioner under an award passed by the Industrial Tribunal. It appears that the award passed by the Industrial Tribunal covers more than one assessment year and the amount of Rs. 1,50,729 represents the liability for the assessment year concerned herein, namely, assessment year 1972-73. A Bench of this court has taken the view in *Madho Mahesh Sugar Mills Pvt. Ltd. v. CIT* ¹ that, even though no trust is created by an assessee within the meaning of Section 36(1)(v), yet the payment towards the said liability is a permissible deduction. The Tribunal has held in this case that the liability to pay this amount accrued during the relevant year, though actual quantification may have been done later. The assessee in this case is maintaining his accounts according to the mercantile system. In the circumstances, the Tribunal was right in holding that the said amount has to be given deduction under Section 37 of the Act. In the circumstances, the question referred is answered in the affirmative and against the assessee. No costs. ;

Cases Referred.

1[1973] 92 ITR 503