

# ANDHRA PRADESH HIGH COURT

Commissioner of Income-Tax

Vs

Shri Sarvaraya Sugars Ltd

(A Raghuvir and Y Anjaneyulu, JJ.)

13.11.1984

## JUDGMENT

**Y. Anjaneyulu, J.**

1. The Income-tax Appellate Tribunal referred the following six questions of law under section 256(1) of the Income-tax Act.

"1. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that the assessee is entitled to the deduction of Rs. 1,38,814 and Rs. 1,25,942 being the interest on the purchase tax arrears in the assessments for the assessment years 1972-73 and 1973-74 respectively ?

2. For the assessment year 1973-74 only :Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that there was no understatement of sales turnover by the assessee-company and that the amount of Rs. 6,20,845 was not liable to be included in the assessee's trading receipts ?

3. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that the addition of Rs. 5,34,522 on account of undervaluation of closing stock is not called for ?

4. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that the assessee is entitled to the deduction of Rs. 7,83,113 as a liability that accrued during the relevant previous year ?

5. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding that the deduction on account of extra cane price is allowable on the basis of accrual of liability ?

6. Whether, on the facts and in the circumstances of the case, the Tribunal is justified in holding

that the expenditure of Rs. 13,683 does not amount to entertainment expenditure and is allowable as a deduction ?"

2. The first question of law above-referred relates to the assessment year 1972-73 as well as 1973-74, whereas questions Nos. 2 to 6 relate only to the assessment year 1973-74. We have heard learned standing counsel for the Revenue and also Sri Parvatha Rao, learned counsel for the assessee. It is represented that questions Nos. 1, 2 and 3 are covered in favour of the assessee by a decision of this court in R.C. 117 of 1979 dated October 9, 1984 CIT v. Chodavaram Co-operative Sugars Ltd. . We accordingly answer these three questions in the affirmative, that is, in favour of the assessee and against the Revenue. We are also informed that question No. 6 is concluded by a decision of this court in Additional CIT v. Maddi Venkataratnam and Company Limited [1979] 119 ITR 514. We accordingly answer question No. 6 also in the affirmative, that is, in favour of the assessee and against the Revenue.

3. That leaves questions Nos. 4 and 5 relating to the assessment year 1973-74. Both these questions relate to the same matter and represent different aspects of the same question arising for consideration.

4. A few facts may be noticed. The assessee carries on business in the manufacture and sale of sugar. The accounting year relevant for the assessment year 1973-74 ended on September 30, 1972. During the period October 1, 1971, to September 30, 1972, the assessee purchased 1,95,753 tons of sugarcane. Under a scheme drawn up by the State Government, the State Government directed the sugar manufacturers to part with a portion of the extra consideration received on the sale of sugar to the cane growers. Following the above scheme, the board of directors of the assessee-company passed a resolution on September 26, 1972, to pay to the cane growers at Rs. 90 per ton in respect of the sugarcane supplied during the accounting year relevant to the assessment year under consideration. It appears, when the resolution was passed on September 26, 1972, the exact amount payable to the sugarcane growers was not determined with reference to the formula devised by the State Government, as by that time, the amount of consideration realised on the sale of sugar was not fully known. All the same, the assessee-company having accepted the principle to part with a portion of the sale consideration realised in favour of the cane growers in accordance with the formula fixed by the State Government, the price was tentatively fixed in the resolution dated September 26, 1972, at Rs. 90 per ton. After the end of the accounting year on September 30, 1972, the assessee made up the accounts and found the actual amount realised on sale of sugar and applying the formula devised by the State Government, it found that the price payable to the cane growers was Rs. 94 per ton instead of Rs. 90 as was tentatively determined in the resolution dated September 26, 1972. On February 12, 1973, before the accounts for the previous year relevant to the assessment year 1973-74 were made up, the board of directors passed another resolution to pay to the cane growers at the rate of Rs. 94 per ton in respect of 1,95,753 tons of sugarcane purchased during the accounting year relevant to the assessment year under consideration. The extra price payable with reference to the

resolution dated February 12, 1973, is stated to be Rs. 7,83,102 (the correct figure appears to be Rs. 7,83,012). The assessee-company claimed deduction of this amount out of its income from business for the assessment year under consideration. The claim was rejected on the ground that the amount became payable pursuant to the resolution on February 12, 1973, which was after the close of the accounting year and, therefore, the liability to pay the said amount did not accrue before the close of the accounting year relevant to the assessment year under consideration. The assessee-company carried the matter in appeal and it transpires that the Income-tax Appellate Tribunal accepted the claim of the assessee-company for deduction of the sum of Rs. 7,83,102 on the ground that the principle to pay the cane growers a portion of the sale price was determined by the resolution dated September 26, 1972, and only the quantification pursuant to the acceptance of the above principle was done on February 12, 1973. The Tribunal held that the mere postponement of quantification did not postpone the accrual of liability also. Aggrieved by the decision of the Tribunal directing the allowance of the above expenditure, the Commissioner of Income-tax had questions Nos. 4 and 5 referred to this court, under section 256(1) of the Income-tax Act.

5. On the facts above stated, we have no hesitation in coming to the conclusion that the Tribunal was right in holding that the expenditure in question is allowable as business expenditure relating to the assessment year under consideration. The facts would unmistakably show that the price payable in respect of the sugarcane purchased was in accordance with the formula densed by the State Government and the correct price with reference to that formula could be determined only after the close of the accounting year when the assessee became aware of the entire consideration realised on the sale of sugar. The price of Rs. 90 per ton fixed by the resolution dated September 26, 1972, was only tentative and the correct quantification of such liability was determined on February 12, 1973, before the accounts were made up and they were submitted for being passed in annual general meeting. It is not in dispute that the price of Rs. 94 per ton was accordingly determined with reference to the formula nor has it been denied that the deduction claimed at the rate of Rs. 94 is in respect of the quantity of sugarcane purchased during the accounting year relevant to the assessment year under consideration. On these admitted facts, the conclusion is irresistible that the difference between Rs. 90 which was tentatively determined on September 26, 1972, and Rs. 94 finally determined on February 12, 1973, accrued as a liability relating to the assessment year under consideration and the Tribunal rightly directed the allowance of such expenditure while computing the income for the assessment year 1973-74. We accordingly answer questions 4 and 5 referred also in the affirmative, that is, in favor of the assessee and against the Revenue.

6. Reference is answered accordingly. Revenue shall pay the costs of assessee. Advocate's fee Rs. 500.

