

BOMBAY HIGH COURT

Commissioner of Income-Tax

Vs.

Saraspur Mills Ltd

Income Tax Ref. No. 39 of 1958

(Shah and S.T. Desai, JJ.)

16.06.1959

JUDGMENT

Shah, J.

1. The assessee is a limited company carrying on the business of manufacturing cloth. In the year of account 1954-55 the assessee purchased certain motor-cars and bicycles for use in their business and claimed in the year of assessment 1955-56 development rebate under Section 10(2) (vi-b) of the Income-tax Act. The income-tax authorities allowed the assessee the normal depreciation on the motor-cars and the bicycles under Section 10(2) (vi). The Tribunal also allowed to the assessee development rebate in respect of the motor-cars and bicycles, holding that the motor-cars and bicycles, were 'plant' within the meaning of Section 10(2) (vi-b) of the Income-tax Act and that the same had been 'installed' after 31-3-1954 and had been wholly used for the purpose of the business carried on by the assessee.

2. In this reference, Mr. Joshi for the Dept. contends that even though within the definition of the expression 'plant' in Section 10(5) of the Income-tax Act vehicles may be included, for the purpose of sub-sec. (2) (vi-b) of Section 10 of the Act vehicles are not included in that expression. Mr. Joshi contends that the Legislature had advisably used the expressions 'installed' and 'installation' in sub-section (2) (vi-b) of Section 10 and that those expressions postulate that the 'plant' must be fixed in position when it is being worked or used and if a plant is from its nature or otherwise incapable of being fixed in position when it is worked, it cannot be regarded as included within the expression 'plant' as used in clause (vi-b) of sub-sec. (2) of Section 10. We are unable to accept that contention. The Legislature had given a special definition of the expression 'plant' in sub-sec. (5) of Section 10 of the Act, and by that definition vehicles, books, scientific apparatus and surgical equipment purchased for the purposes of the business, profession or vocation are expressly included within the definition: and in the absence of very strong indication to the contrary in Sub-Section (2) (vi) of Section 10 we will not be justified in

holding that notwithstanding the definition which is specially devised for sub-sec. (2), the expression 'plant' will not include vehicles, books, scientific apparatus and surgical equipment some of which by their very nature are incapable of being fixed in position at the time when they are worked or used.

The assumption made by Mr. Joshi that the expression 'installed' must necessarily mean 'fixed in position' at the time when the plant is worked or used does not, in our judgment, seem to be justified. The expression 'installed' is also used in the sense of 'inducted or introduced', and if that be the sense in which that expression is used, there is nothing inconsistent in the context in which that word is used which will justify us in holding that the word 'plant' in Section 10, sub-sec. (2), clause (vi-b), of the Income-tax Act was not intended to include vehicles.

3. We, therefore, proceed to answer the question referred to us for decision in the affirmative. The Commissioner to pay the costs of the assesses.
Reference answered in the affirmative.