Lakshmiji Sugar Mills Co vs Commissioner Of Income Tax, New Delhi on 27 August, 1971

Equivalent citations: 1972 AIR 159, AIR 1972 SUPREME COURT 159, 1972 TAX. L. R. 51

Author: A.N. Grover

Bench: A.N. Grover, K.S. Hegde

PETITIONER:
LAKSHMIJI SUGAR MILLS CO.

Vs.

RESPONDENT:
COMMISSIONER OF INCOME TAX, NEW DELHI

DATE OF JUDGMENT27/08/1971

BENCH:
GROVER, A.N.
BENCH:
GROVER, A.N.
HEGDE, K.S.
HEGDE, K.S.

CITATION:
1972 AIR 159
CITATOR INFO :
D 1977 SC 991 (3,4)
R 1981 SC 395 (5,6)

ACT:
Income Tax Act-Capital or Revenue Expenditure-Test

HEADNOTE:
The appellant assessee is a private Ltd. Company carrying on the business of manufacture and sale of sugar. During the accounting period relating to the assessment year 1956-57, sums of Rs. 75,000/- and Rs. 37,000/- were paid by the assessee to the Cane Development Council of the Sugarcane Department of U.P. (under U.P. Sugarcane Regulation and Sugar and Purchase Act, 1953) by way of contribution for road development between various sugar cane producing centers and the sugar factories of the assessee. The roads

were originally the property of the Government and remained so after improvements had been made. The improved roads facilitated the transportation of cane to the factories of the assessee and the expenditure was incurred for commercial expediency and for benefit of the day to day business of the assessee. The Revenue Authorities, the Appellate Tribunal and the High Court found that these contributions constituted capital expenditure and could not be allowed as an admissible deduction in computing the total income of the Assessee. Allowing the appeal,

HELD : In the facts and circumstances of the case the expenditure was incurred by the assessee for reasons of commercial expediency apart from statutory compulsion. The development of the roads was necessarily meant for facilitating the carrying on of the assessee's business with a view to produce profits. In the absence of any finding by the Tribunal that the roads were to be altogether newly made and that the assesses would get an enduring benefit, the expenditure was allowable as an admissible deduction. [468 H]

Assam Bengal Cement Co. Ltd. v. C.I.T. West Bengal, 27 I.T.R. 34, 45; C. I. T. West Bengal v. Hindusthan Motors Ltd., 68 1. T. R. 301 and C.I.T. West Bengal v. Royal Calcutta Turf Club, 41 I.T.R. 414, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1928 of 1968.

Appeal by special leave from the judgment and order dated February 17, 1967 of the Delhi High Court in Income-tax Re- ference No. 18 of 1963.

D. K. Bajaj and K. B. Rohatgi, for the appellant. S. T. Desai, P. L. Juneja, R. N. Sachthey and B. D. Sharma, for the respondent.

The Judgment of the Court was delivered by Grover, J. This is an appeal by special leave from a judgment of the Delhi High Court in an Income tax Reference. The assessee, which is the appellant, is a private limited company carrying on the business of manufacture and sale of sugar. it has two sugar mills one at Maholi (Sitapur) and the other at Raja-ka-Sahaspur (Moradabad). The head office of the assessee is at New Delhi. During the accounting period relating to the assessment year 1956-57 sums of Rs. 75,000/- and Rs. 37,500/- were paid by the assessee to the Cane Development Council of the Sugarcane Department of the Government of Uttar Pradesh by way of contribution for road development between the various sugarcane producing centers and the sugar factories of the assessee. The revenue authorities found that these contributions were intended to be applied for the construction and development of roads between the sugarcane producing centres and the sugar mills and held that these amounts constituted capital expenditure and could not be allowed as an admissible deduction while computing the total income of the assessee. The Appellate Tribunal

upheld the order of the departmental authorities. On an application being moved the Tribunal referred two questions of law to the High Court. We are concerned only, in the present case, with the second question which is as follows:

> "Whether the sums of Rs. 75,000 and Rs. 37,500 paid to the Road Development Fund set up by the Government of U.P. were rightly disallowed as items of capital expenditure ?"

The High Court held that the aforesaid expenditure could not be regarded as revenue expenditure and the answer was returned against the assessee.

According to the assesses certain facts are fully esta- blished. These are (1) the expenditure incurred was for the development of roads and the assessee was under an obligation to make the aforesaid contributions under the provisions of the U. P. Sugarcane Regulation of Supply & Purchase Act, 1953; (2) the roads were originally the property of the government and remained so after the improvement had been made. (3) the sole reason for which the assessee had made the contribution was that the improved roads would facilitate the transportation of cane from the cane producing centres to the premises of the mills and also the flow of supply to and from the factories of the assessee; and (4) the expenditure was incurred for reasons of commercial expediency and for the benefit of the day to day business of the assessee.

According to the High Court it was admitted on behalf of the assessee that if expenditure had been incurred by it for building roads of its own it would be capital expenditure. The High Court could see no difference if expenditure was incurred under compulsion or even without compulsion if the roads were built for facilitating transportation and improving the business and the flow of supply to and from the factories of the assessee.

We are unable to agree with the reasoning or the conclusion of the High Court. The general principles governing the determination of the question whether an expenditure is in the nature of capital or revenue expenditure are well known. Where expenditure is incurred while the business is being carried on and not for its extension or for the substantial replacement of its equipment the position would be as follows :-

> "If the expenditure is made for acquiring or bringing into existence an asset or advantage for the enduring benefit of the business it is properly attributable to capital and is of the nature of capital expenditure. If on the other hand it is made not for the purpose of bringing into existence any such asset or advantage but for running the business or working it with a view to produce the profits it is a revenue expenditure." (Vide Assam Bengal Cement Ltd. v. Commissioner of Income tax, West Bengal(1) The argument on behalf of the revenue is that the expenditure which was incurred by the assessee in the present case was intended for bringing into existence an advantage for the enduring benefit of the business. On the other hand it has been maintained on behalf of the assessee that the expenditure was properly attributable to running the business or working it with a view to produce the profits. The Calcutta High Court

had occasion to consider an identical question in Commissioner of Income tax, West Bengal v. Hindustan Motors Ltd.(). There the location of a factory of motor car manufacturing company was a little distance away from the main road. The approach road belonged to the government. It fell into disrepair and began to cause transportation difficulties to the assessee. The Government was not prepared to meet the expenses for the repair of the road. The assessee offered to contribute a certain amount for the improvement. The High Court had no difficulty in coming to the conclusion that the money was spent not so much to bring about any asset or advantage of enduring benefit to itself but it was incurred for its efficient and convenient running and therefore it was of revenue nature. This case has been sought to be distinguished on behalf of the Revenue on the ground that the expenditure was incurred only to meet the expense of the repair and no asset or advantage of an enduring benefit accrued or resulted to the assessee. This distinction does not appear to be sound because in the diverse nature of business operations it is difficult to lay down a test which would apply to all situations. The criteria has to be applied from the business point of view and on a fair appreciation of the whole situation. In the present case apart from the element of compulsion the (1) 27 I. T.R. 34,45. (2) 68 I.T.R. 301.

roads which were constructed and developed were not the, property of the assessee nor is it the case of the Revenue that the entire cost of development of those roads was defrayed by the assessee. It only made certain contribution for road development between the various cane producing centres and the mills. The apparent object and purpose was to facilitate the running of its motor vehicles or other means employed for transportation of sugarcane to the factory. From the business point of view and on a fair appreciation of the whole situation the assessee considered that the development of the road in question could greatly facilitate the transportation of sugarcane. This was essential for the benefit of its business which was of manufacturing sugar in which the main raw material admittedly consisted of sugarcane. These facts would bring it within the second part of the principle mentioned before, namely, that the expenditure was incurred for running the business or working it with a view to produce the profits without the assessee getting any advantage of an enduring benefit to itself. In our judgment the ratio of the decision in Commissioner of Income tax, West Bengal, v. Royal Calcutta Turf Club(1) would be applicable to the present case. There the question was whether the expenditure on running a school for training of jockeys by the Royal Calcutta Turf Club could be claimed as a deduction under s. 10 (2) (xv) of the Indian Income tax Act 1922. It ,,,as pointed out that the business of the club was to run race meetings on a commercial scale for which it was necessary to have races of a high order. For the popularity of races and to make its business profitable it was necessary for the club to have jockeys of requisite skill and experience in sufficient numbers. It was for that purpose that the school had been started for training Indian jockeys. If there had not been sufficient number of Indian jockeys the interest of the club would have suffered. Therefore the expenditure incurred on running the school must be regarded as having been wholly and exclusively laid out for the purpose of the business of the club. Emphasis was laid on the principle that in order to justify a deduction it must be for reasons of commercial expediency and it must be incurred for the assessee's business. We are satisfied that in the present case the expenditure was incurred by the assessee for reasons of commercial expediency apart from statutory

compulsion to which reference has been made before. The development of the roads was necessarily meant for facilitating the carrying on of the assessee's business. Furthermore the Tribunal did not give any finding that the roads were to be altogether newly made and that the assessee (1) 41 I.T.R. 414.

would get an enduring benefit from these roads. The expenditure in question should have, therefore, been allowed as an admissible deduction.

For the reasons given above the appeal is allowed and the answer given by the High Court to the question referred is discharged. We would return the answer in the negative and' in favour of the assessee. The assessee will be entitled to its costs in this Court.

S.C. Appeal allowed.