

Commissioner Of Income-Tax vs Digvijay Cement Co. Ltd. on 16 December, 1997

Equivalent citations: [1998]232ITR709(SC), (1998)9SCC476A

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Bench: S.C. Sen, S.S.M. Quadri

JUDGMENT

Suhas C. Sen, J.

1. The following question of law was referred by the Tribunal to the High Court (see), for its opinion under Section 256(1) of the Income-tax Act, 1961. The question is (at page 255) :

Whether, on the facts and in the circumstances of the case, the pontoons and tugs are covered by the expression 'ship' and therefore are entitled to development rebate at a higher rate of 40 percent, instead of 25 per cent, on the basis of plant ?

2. Section 32 of the Act deals with the depreciation of buildings, machinery, plant or furniture, owned by an assessee. Section 33 deals with development rebate. The rebate has to be allowed in respect of a new ship or new machinery or plant which has been owned by the assessee and is wholly used for the purpose of the business carried on by him subject to various conditions laid down in that section. In the case of a ship, the amount of rebate allowable is 40 per cent, of the actual cost thereof to the assessee.

3. The only question is whether "pontoons" and "tugs" will come within the word "ship". The word "ship" has not been defined in the Act. However, in the table of rates at which depreciation is admissible, the meaning of ship has been given in Appendix-I to the Income-tax Rules where "ship" is defined to include :

1. Ocean going ships-

(i) Fishing vessels with wooden hull ;

(ii) Dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes ;

(iii) Other ships.

2. Vessels ordinarily operating on inland waters-

(i) Speed boats ;

(ii) Other vessels.

4. This definition makes it clear that ships would include tugs. There cannot be any dispute as to that.

5. However, 'pontoons' have not been specifically included within the meaning of 'ship'. However, having regard to the types of vessels that are entitled to depreciation like dredgers, tugs, barges, survey launches, fishing vessels with wooden hull and also vessels ordinarily operating on inland waters, we agree with the view of the High Court that an expanded meaning has to be given to 'ships' and pontoons will come within that expanded meaning.

6. According to the Concise Oxford Dictionary, 1976 edition, "pontoon" is a flat-bottomed boat used as ferry-boat or to carry lifting-gear, etc.

7. Having regard to the width of the meaning given to the word "ships" in the depreciation table, it is clear that a flat bottomed boat used as ferry-boat will clearly come within the description "vessels ordinarily operating on inland waters". There is no reason why a restricted meaning will have to be given to "ship" for the purpose of Section 33.

8. We are of the view that the High Court has come to the right decision. The appeal is dismissed. There will be no order as to costs.