Commissioner Of Income Tax, Kerala vs Associated Fibre And Rubber Industries ... on 3 February, 1999

Equivalent citations: AIR 1999 SUPREME COURT 934, 1999 AIR SCW 500, (1999) 102 TAXMAN 700, (1999) 2 KER LT 33, 1999 (1) SCALE 316, 1999 (1) LRI 460, 1999 (1) ADSC 511, 1999 (2) SCC 309, 1999 (3) SRJ 240, (1999) 1 JT 311 (SC), 1999 (1) JT 311, (1999) 236 ITR 471, (1999) 1 SCJ 371, (1999) 149 TAXATION 70, (1999) 1 SUPREME 340, (1999) 1 SCALE 316, (1999) 152 CURTAXREP 21, (1999) 32 CORLA 407

Bench: M. Srinivasan, U.C. Banerjee

CASE NO.:
Appeal (civil) 3428 of 1991

PETITIONER:
COMMISSIONER OF INCOME TAX, KERALA

RESPONDENT:
ASSOCIATED FIBRE AND RUBBER INDUSTRIES (P) LTD.

DATE OF JUDGMENT: 03/02/1999

BENCH:
M. SRINIVASAN & U.C. BANERJEE

JUDGMENT:

JUDGMENT 1999 (1) SCR 375 The following Order of the Court was delivered :

The respondent-assessee is a private limited company. The original assessment for the years 1972-73 was made on 28.2.1973 determining the loss as Rs. 78,823. A sum of Rs. 78,500 claimed as interest paid by the assessee on amounts borrowed for purchase of machinery was allowed as a deduction. Similarly, for the year 1973-74, in the original assessment deduction was allowed for similar interest paid by the assessee. While making the assessment for the assessment year 1974-75, the Income Tax Officer noticed that the assessee had included a note in the schedule of fixed assets appended to its balance sheet as on 31.3.1973 and that no depreciation had been made for unused rubberised machinery valued at Rs. 4,80,000. Hence, the Income Tax Officer held that such machinery had not been used for the business of the assessee. Consequently, the I.T.O. took the view that the assessee was not entitled to claim deduction for the interest paid by him in all the three assessment years. The assessment was re-opened and fresh assessment orders were passed by the I.T.O. rejecting the claim of deduction made by the assessee. That order was confirmed on

> appeal by the Appellate Assistant Commissioner and when the matter was taken to the Tribunal, the latter took the view that the machinery being business asset, the interest paid on the amount borrowed for the purchase of such machinery would certainly be an allowable deduction. Consequent-ly, the Tribunal upheld the claim of the assessee and permitted the deduc-tion being made.

2. The Revenue applied to the High Court under Section 256(2) for directing the Tribunal to make a reference to it on the following question :

> "Whether on the facts and in the circumstances of the case the Tribunal is justified in law in holding that the interest paid by the assessee on loans taken from the bank for the purchase of machinery, which was never used in the assessee's business, is an allowable deduction in computing the total income of the assessee for the assessment year 1972-73 and 1973-74."

Similar application was filed for the year 1974-75. The High Court dismissed the applications by two separate orders. Both the orders are challenged in this appeal.

3. We do not find any merit in this appeal. We find that the reasoning of the Tribunal is correct. Even though the machinery has not been actually used in the business at the time when the assessment was made, the same had been treated as business asset and it was purchased only for the purposes of the business. In the circumstances, the interest paid on the amount borrowed for purchases of such machinery is certainly a deductible amount. Consequently, the view taken by the Tribunal is correct.

4. The appeal is dismissed. There will be no order as to costs. T.N.A. Appeal dismissed.