

## **Pandian Chemicals Ltd. vs Commissioner Of Income-Tax on 24 April, 2003**

**Equivalent citations: (2003)183CTR(SC)99, [2003]262ITR278(SC), (2003)5SCC590**

**Bench: Ruma Pal, B.N. Srikrishna**

### **ORDER**

1. The assessment year in question is 1984-85. The following question was referred under Section 256(1) of the Income-tax Act, 1961, to the High Court:

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the interest on deposits with Tamil Nadu Electricity Board should be treated as income derived by the industrial undertaking for the purpose of Section 80HH ?"

2. The court followed its earlier decision in CIT v. Pandian Chemicals Ltd. and answered the question in favour of the Department and against the assessee.

3. The appellant preferred two special leave petitions ; the first from the decision in CIT v. Pandian Chemicals Ltd. , being SLP (C) No... CC 3017 of 2000 and the second being the present appeal. As far as the first matter was concerned the special leave petition was dismissed on the ground of delay. The question of law was left open. We have therefore to consider whether, on the merits, the decision of the High Court in adopting the reasoning given in Pandian Chemicals Ltd.'s case was correct.

4. Section 80HH of the Income-tax Act grants deduction in respect of profits and gains "derived from" an industrial undertaking. The contention of the appellant before us is that interest earned on the deposit made with the Electricity Board for the supply of electricity to the appellant's industrial undertaking should be treated as income derived from the industrial undertaking within the meaning of Section 80HH. It is submitted that without the supply of electricity the industrial undertaking could not run and since electricity was an essential requirement of the industrial undertaking, the industrial undertaking could not survive without it. It is further pointed out that for the purpose of getting this essential input, the statutory requirement was that the deposit must be made as a pre-condition for the supply of electricity. Consequently, according to the appellant, the interest on the deposit should be treated as income derived from the industrial undertaking within the meaning of Section 80HH.

5. The High Court rejected the submission of the appellant by relying upon the decision of this court in Cambay Electric Supply Industrial Co. Ltd. v. CIT , where this court had clearly stated that the expression "derived from" had a narrower connotation than the expression "attributable to" (page

93) :

"In this connection, it may be pointed out that whenever the Legislature wanted to give a restricted meaning in the manner suggested by the learned Solicitor-General, it has used the expression 'derived from', as, for instance, in Section 80J. In our view, since the expression of wider import, namely, 'attributable to', has been used, the Legislature intended to cover receipts from sources other than the actual conduct of the business of generation and distribution of electricity."

6. The word "derived" has been construed as far back in 1948 by the Privy Council in CIT v. Raja Bahadur Kamakhya Narayan Singh [1948] 16 ITR 325 when it said (page 328) :

"The word 'derived' is not a term of art. Its use in the definition indeed demands an enquiry into the genealogy of the product. But the enquiry should stop as soon as the effective source is discovered. In the genealogical tree of the interest land indeed appears in the second degree, but the immediate and effective source is rent, which has suffered the accident of non-payment. And rent is not land within the meaning of the definition."

7. This definition was approved and reiterated in 1955 by a Constitution Bench of this court in the decision of Mrs. Bacha F. Guzdar v. CIT . It is clear, therefore, that the word "derived from" in Section 80HH of the Income-tax Act, 1961, must be understood as something which has direct or immediate nexus with the appellant's industrial undertaking. Although electricity may be required for the purposes of the industrial undertaking, the deposit required for its supply is a step removed from the business of the industrial undertaking. The derivation of profits on the deposit made with Electricity Board cannot be said to flow directly from the industrial undertaking itself.

8. The learned counsel appearing on behalf of the appellant has referred to several decisions of the Madras High Court in order to contend that the word "derived from" could be construed to include situations, where the income arose from something having a close connection with the industrial undertaking itself. All the decisions cited by the appellant have been considered by the Madras High Court in the case of Pandian Chemicals Ltd. . We see no reason to disagree with the reasoning given by the High Court in Pandian Chemicals Ltd. 's case with respect to those decisions to hold that they do not in any way allow the word "derived" in Section 80HH to be construed in the manner contended by the appellant.

9. The learned counsel for the appellant then contended that having regard to the object with which Section 80HH was introduced in the statute book, this court should give a liberal interpretation to the words in a manner so as to allow such object to be fulfilled. The rules of interpretation would come into play only if there is any doubt with regard to the express language used. Where the words are unequivocal, there is no scope for importing any rule of interpretation as submitted by the appellant. In the circumstances of the case, we affirm the decision of the High Court and dismiss the appeal without any order as to costs.