

Jeewanlal (1929) Ltd. vs Commissioner Of Income-Tax, West ... on 25 July, 1968

Equivalent citations: AIR1969SC753, [1969]74ITR753(SC), AIRONLINE 1968 SC 10

Bench: A.N. Grover, J.C. Shah

JUDGMENT

Shah, J.

1. The appellant-company started negotiations with a bank for securing overdraft facilities for the purpose of its business and in that connection had to incur an expenditure of Rs. 35,800. The amount so spent was claimed by the appellant company as a permissible deduction in proceedings for assessment of income-tax for the year 1952-53. The departmental authorities rejected the claim for allowance of the amount and the Tribunal confirmed that order. The Tribunal at the instance of the appellant company, referred the following question to the High Court of Calcutta :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the sum of Rs. 35,800 incurred by the assessee for the purpose of raising or securing overdraft facilities from the bank was an expenditure of capital nature not allowable under section 10(2) (xv) ?"

2. This court in *Indian Cements Ltd. v. Commissioner of Income-tax* held that the expenditure incurred by the assessee for obtaining a loan from the Industrial Finance Corporation secured by a charge on its fixed assets was an admissible allowance under section 10 (2) (xv) of the Income-tax Act, 1922, in the computation of total income. In the view of the court the act of borrowing money was incidental to the carrying on of business the loan obtained was not an asset or an advantage of enduring nature the expenditure was made for securing the use of money for a certain period and it was irrelevant to consider the object with which the loan was obtained.

3. In the present case, the Tribunal has not recorded any finding as to the extent of the overdraft facility the period if any for which the facility was granted, and the terms on which the overdraft facilities were secured. But in our view these defects in the statement of case by the Tribunal do not affect the application of the principle of the decision of this court in *India Cements Ltd. v. Commissioner of Income-tax*.

4. The appeal is therefore allowed and the order of the High Court is discharged. The answer to the question referred is that the expenditure is of revenue nature allowable under section 10 (2) (xv) of the Indian Income-tax Act, 1922. There will be no order as to costs.

5. Appeal allowed.