

Gujarat High Court

The vs Unknown on 26 August, 2008

Author: K.A.Puj,&NbspHonourable Mr.Justice Bankim.N.Mehta,&Nbsp
Gujarat High Court Case Information System

Print

TAXAP/44820/2008

2/ 2 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX

APPEAL No.448 of 2008

=====

THE
COMMISSIONER OF INCOME TAX-I - Appellant

Versus

LALBHAI
EXPORTS LTD. - Opponent

=====

Appearance :
MR
MANISH R BHATT with MRS MAUNA M BHATT for Appellant.
None for
Opponent.

=====

CORAM

:

HONOURABLE

MR. JUSTICE K. A. PUJ

and

HONOURABLE

MR. JUSTICE BANKIM N. MEHTA

Date
: 26/08/2008

ORAL
ORDER

(Per : HONOURABLE MR. JUSTICE K. A. PUJ) The Revenue has filed this Tax Appeal under Section 260A of the Income Tax Act, 1961 for assessment year 1996-97 proposing to formulate the following substantial questions of law:

[A] Whether the Appellate Tribunal is right in law and on facts in deleting the disallowance of Rs.7,06,6660/- which was made by the Assessing Officer considering the same to be a capital payment under voluntary retirement scheme on closure of cotton textile business?

[B] Whether the Appellate Tribunal has correctly appreciated the facts on record in accepting the assessee's claim that the business had not closed down?

Heard Mr.Manish R. Bhatt, learned Senior Standing Counsel appearing for the Revenue.

In this case after detailed discussion, the CIT (A) has confirmed the order of the Assessing Officer. The Tribunal has not discussed this issue at all nor any fact is distinctly pointed out in the order. The CIT (A) has distinguished the fact of the present assessment year with that of the earlier assessment year and come to the conclusion that payment made to the employees in Voluntary Retirement Scheme is in the nature of capital expenditure. The Tribunal has not discussed this issue and passed the order on the basis of the order for earlier assessment year. Since the facts are being distinguished so far as the present year, the order of the Tribunal gives rise to the substantial questions of law which are required to be formulated.

Hence, this Tax Appeal is admitted in terms of the above referred to questions. Notice to other side. Additional Paper-Book, if any, be filed within three months from today.

[K.

A. Puj, J.] [Bankim N. Mehta, J.] Rajendra Top