Madras High Court
Commissioner Of Income Tax - I vs M/S.Sakthi Sugars Ltd on 10 August, 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2010

C O R A M:
THE HONOURABLE MR.JUSTICE F.M.IBRAHIM KALIFULLA
and
THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
TAX CASE (APPEAL) No.411 of 2004

Commissioner of Income Tax - I,
Coimbatore. .. Appellant

vs.

M/s.Sakthi Sugars Ltd.,
Coimbatore 641 018. .. Respondent

Tax Case Appeal is filed under Section 260A of the Income Tax Act, 1961 against the orde

For Appellant : Mr.T.Ravikumar
Senior Standing Counsel for IT Dept.
For Respondent : Mr.R.Vijaya Ragavan
for M/s.Subbaraya Aiyer Padmanabhan

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J U D G M E N T

F.M.IBRAHIM KALIFULLA, J.

The substantial question of law that arises for consideration in this appeal and as framed at the time of admission is as under:

"Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was right in holding that the expenditure on setting up new sugar units in Orissa were allowable as a revenue expenditure on the ground that the said expenditure has been incurred for the expansion of the assessee's existing business ?"

2. The assessment year was 1992-1993. The issue centres around the expenses relating to Baramba and Dhenkanal sugar units of the respondent. The respondent is having three different lines of manufacturing activities viz., Sugar Division, Distillery Division and Foundry Division.

3. In the Sugar Division, its factory at Sakthi Nagar is situated in Periyar District, Tamil Nadu has been noted as Unit-I, its manufacturing unit at Padamathur, Sivaganga Taluk, P.M.T. District also in Tamil Nadu is called Unit-II and its manufacturing unit at Sunapal, Barambagarh, Cuttack District, Orissa is known as Unit-III.

4. The Baramba Sugar Unit was stated to have commenced production on 11.12.1991 and 29,719 tonnes of sugarcane has been crushed. In Dhenkanal Sugar Unit, the construction work of the factory building, sugar godowns and staff quarters were stated to have been nearing completion as disclosed in the Annual Report of the respondent's company pertaining to the year 1992. The Dhenkanal Sugar Unit was expected to commence cane crush by January/February 1993.

5. The Appellate Authority noted that subsequent to the filing of the original return, the assessee filed revised return and claimed further revenue expenses relating to the expansion of the sugar units. It was claimed by the respondent assessee that the Baramba Sugar unit with crushing capacity of 1250 TCD was taken over by the company on 'Management Contract' for a period of 10 years and steps were being taken to start the mill by the middle of December, 1991. As far as the Dhenkanal Sugar unit was concerned, it was claimed that the sugar factory with 2500 TCD capacity at Haripus Village, Dhenkanal District, Orissa State was planned and lands were purchased and civil construction work was in progress. It was also claimed that the machinery supply had commenced and the new sugar factory was expected to commence production during 1992-93 season.

6. It was further claimed that effective steps were taken in developing sugarcane in the area of operation to ensure availability of good quality cane at the time of commencement of the operations.

7. It was not in dispute that in respect of the said two units, the respondent assessee also claimed to have obtained various incentives like subsidy etc., which were available to a new industrial undertaking.

8. For the above stated reasons, the Assessing Authority held that the assessee's business and installed capacity had gone up and the business was expanded in a different State and that the assessee cannot claim the expenses incurred on the installation of new factories as revenue expenditure. Accordingly, the same were treated as capital expenditure.

9. The assessee went on appeal before the Commissioner of Income Tax (Appeals) in ITA No.196-C/95-96. The Commissioner of Income Tax (Appeals) by taking note of the nature of expenses involved viz., cane development expenses, travelling expenses, interest charges, administrative expenses, lease rents, etc. which were all in the nature of revenue expenses and also the decisions in various cases that such expenses incurred in setting up of a new units does not amount to starting of a new business but only expansion or extension of the business which was being carried on by the assessee held that they are deductible as revenue expenditure. The

Commissioner of Income Tax (Appeals) also placed reliance upon the earlier decisions reported in 175-ITR-215 (Commissioner of Income Tax Vs. Indian Telephone Industries Ltd.,), 175-ITR-216 (Commissioner of Income Tax Vs. Hindustan Machine Tools), 196-ITR-845 (Kesoram Industrials & Cotton Mills Ltd. case) and 109-ITR-715 (Commissioner of Income Tax Vs. Allambic Glass Mills Ltd.). The Commissioner of Income Tax (Appeals) further directed the Appellate Authority to verify whether the entire expenses claimed were incurred during the year and if so allow the claim in full.

10. The Revenue went on appeal before the Tribunal. The Tribunal also held that expenses incurred by the assessee in setting up the new sugar factories at Baramba and Dhenkanal in Orissa to an extent of `.6,84,78,570/- does not amount to starting of a new business, but only expansion or extension of the business already being carried on and the expenses in connection with such expansion of business are deductible as revenue expenditure. The decisions relied upon by the Commissioner of Income Tax (Appeals) was followed by the Tribunal also. The Tribunal also noted that the same issue was earlier decided by the Tribunal in the assessee's own case in ITA No.2020(Mds)/1994, for the assessment year 1991-92 and ultimately upheld the assessee's claim and rejected the appeal.

11. Aggrieved by the orders of the Commissioner of Income Tax (Appeals) as confirmed by the Tribunal, the Revenue has come forward with this appeal.

12. We heard Mr.T.Ravi Kumar, learned standing counsel for the appellant and Mr.R.Vijaya Raghavan, learned counsel for the respondent assessee.

13. Mr.T.Ravi Kumar, learned standing counsel for the appellant in the course of his submissions took us through the various references found in the Annual Report–992 of the respondent assessee in support of his submissions that such expenses incurred were capital in nature as they would show that such expenditure was of enduring in nature and therefore they should be held as capital expenditure. The learned standing counsel relied upon the decision reported in 27 ITR 34 (Assam Bengal Cement Co. Ltd., Vs. Commissioner of Income Tax, West Bengal), 224 ITR 342 (Jonas Woodhead and Sons (India) Ltd. Vs. Commissioner of Income Tax), 210 ITR 998 (Shahibag Entrepreneurs Pvt. Ltd. Vs. Commissioner of Income Tax), 249 ITR 319 (Commissioner of Income Tax Vs. Sharpedge Ltd.), 225 ITR 792 (Punjab State Industrial Development Corporation Ltd., Vs. Commissioner of Income Tax), 225 ITR 798 (Brooke Bond India Ltd. Vs. Commissioner of Income Tax), 224 ITR 414 (Ballimal Naval Kishore Vs. Commissioner of Income Tax), 303 ITR 433 (International Airports Authority of India Vs. Commissioner of Income Tax), 274 ITR 59 (TI Diamond Chain Ltd. Vs. Commissioner of Income Tax), 293 ITR 170 (Bigjo's India Ltd., Vs. Commissioner of Income Tax), 322 ITR 20 (Assistant Commissioner of Income Tax Vs. Elecon Engineering Co. Ltd.), 293 ITR 201 (Commissioner of Income Tax Vs. Saravana Spinning Mills P. Ltd.), 238 ITR 445 (Commissioner of Income Tax Vs. Balaramput Chini Mills Ltd.), 294 ITR 328 (Commissioner of Income Tax Vs. Ramaraju Surgical Cottol Mills), 315 ITR 114 (Commissioner of Income Tax Vs. Sri Mangayarkarasi Mills P. Ltd.), 98 ITR 167 (Challapalli Sugars Ltd. Vs. Commissioner of Income Tax) and 255 ITR 243 (Commissioner of Income Tax Vs. Madras Cements Ltd.) in support of his submissions.

14. As against the above submissions, Mr.R.Vijaya Raghavan, learned counsel appearing for the assessee contended that Baramba and Dhenkanal units were nothing but expansion of the assessee's sugar manufacturing business and that it was not a new business. The learned counsel placed before us the details of expenditure in connection with Baramba unit and Dhenkanal unit in `.1,00,21,283/- and `.5,84,57,287/- respectively totalling `.6,84,78,570/- and pointed out that every one of such expenditure were incurred for the running of the business of the sugar units in Baramba and Dhenkanal and none of the expenditure were capital in nature.

15. The learned counsel further contended that even the interest on capital was eligible as revenue expenditure under Section 36(1)(iii) of the Act which was thus permitted till the proviso came into force w.e.f. 01.04.2004 and that too prospectively.

16. The learned counsel therefore contended that the Commissioner of Income Tax (Appeals), as well as, the Tribunal was well justified in accepting the claim of the respondent in respect of those expenses as revenue expenditure in as much as there was no scope for treating any of those expenses as one of enduring in nature. The learned counsel therefore contended that the appeal does not merit any consideration and the same is liable to be rejected.

17. The learned counsel relied upon the decisions reported in 298 ITR 194 (SC) (Deputy Commissioner of Income Tax Vs. Core Health Care Ltd.,), 299 ITR 85 (SC) (Deputy Commissioner of Income Tax Vs. Gujarat Alkalies and Chemicals Ltd.), 205 CTR (Mad) 498(Commissioner of Income Tax Vs. Carborandum Universal Ltd.), 220 ITR 185 (Veecumsees Vs. Commissioner of Income Tax), 60 ITR 52 (India Cements Ltd. Vs.Commissioner of Income Tax), 293 ITR 459 (Mad)(Commissioner of Income Tax Vs. Rane (Madras) Ltd.), 175 ITR 212 (Commissioner of Income Tax Vs.Hindustan Machine Tools Ltd.), 175 ITR 215 (Commissioner of Income Tax Vs. Indian Telephone Industries Ltd.),293 ITR 231(Commissioner of Income Tax Vs. Relaxo Footwears Ltd.), 311 ITR 405 (Jay Engineering Works Ltd. Vs. Commissioner of Income Tax), 164 ITR 525 (Commissioner of Income Tax Vs. S.S.M.Ahmed Hussain), 177 ITR 377 (Alembic Chemical Works Co. Ltd. Vs. Commissioner of Income Tax), 150 CTR 126 (Commissioner of Income Tax Vs. I.A.E.C.(Pumps) Ltd.) : 232 ITR 316, and 290 ITR 196(Commissioner of Income Tax Vs. Thirani Chemicals Ltd.) in support of his submissions. The learned counsel also submitted that the decision reported in 315 ITR 114 (Commissioner of Income Tax Vs. Sri Mangayarkarasi Mills P. Ltd.), 322 ITR 20 (Assistant Commissioner of Income Tax Vs. Elecon Engineering Co. Ltd.) and 312 ITR 254 (Commissioner of Income Tax Vs. Woodward Governor India P. Ltd.) were all distinguishable and the same are not applicable to the facts of this case.

18. Having heard the learned standing counsel for the appellant as well as the learned counsel for the respondent and also having perused the impugned order and the details of expenditure filed before us in the form of a Statement, we are convinced that the Commissioner of Income Tax (Appeals) as well as the Tribunal were fully justified in accepting the case of the assessee in respect of those expenses as revenue expenditure and we do not find any good ground to interfere with those decisions.

19. A perusal of the details of the expenses furnished before us in respect of Baramba unit which were stated to be by way of pre-operation expenses were incurred towards salaries, wages, bonus, contribution to Provident Fund, workmen welfare expenses, power, fuel and water, manufacturing expenses, rent for office building, insurance premium, repairs and maintenance for machinery and building, motor vehicle, office equipment etc., interest on bills cleared, freight and transport, cane development expenses, travelling expenses, other administrative expenses and financial and bank charges.

20. In respect of Dhenkanal Sugar unit, the expenses incurred by way of pre-operative expenses for the year 1991-92 were towards cane development expenses, travelling expenses, administrative and other expenses, legal and professional charges, electricity charges, rates and taxes, insurance premium, repairs and maintenance charges for building and machinery and motor vehicle and other office equipment maintenance, financial and bank charges, freight and transport, salaries, wages, bonus etc., workmen welfare expenses, interest charges and depreciation.

21. The said statement of expenditure which provide a break-up for the entire sum of `.6,84,78,570/- which was a sum allowed as revenue expenditure by the Commissioner of Income Tax (Appeals) as well as the appellate Tribunal is not in dispute. Therefore, the question that arises for consideration is whether such expenditures are allowable as provided under Sections 36 and 37 of the Act.

22. When we refer to Sections 36 and 37 of the Act, under Section 36(1)(iii), the amount of interest paid in respect of capital borrowed for the purpose of the business or profession is an allowable deduction while computing the income referred to under Section 28 viz., 'Profits and gains of business or profession'.

23. Under Section 37 of the Act, any expenditure not being expenditure of the nature described in Sections 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee, laid out or expended wholly and exclusively for the purposes of the business or profession shall be allowed in computing the income chargeable under the head 'Profits and gains of business or profession'.

24. It is the case of the appellant that all the expenses relating to a sum of `.6,84,78,570/- in respect of the Baramba Sugar Mill and Dhenkanal Sugar Mill were covered by the Explanation to Section 37(1) or 37(2B) of the Act. In the said circumstances, we are convinced that every one of such expenditure was revenue in nature and therefore the same were allowable deduction as provided under Sections 36(1)(i) & (iii) and 37(1) of the Act. We, therefore, do not find any scope to interfere with the orders of the Commissioner of Income Tax (Appeals) or that of the Tribunal which confirmed the order of the Commissioner of Income Tax (Appeals).

25. Of the various decisions relied upon by either side, we feel that, for our purpose, we can only refer to the following decisions viz., (1955) XXVII ITR 34 (Assam Bengal Cement Co. Ltd., Vs. Commissioner of Income Tax, West Bengal), (1997) 224 ITR 414 (Ballimal Naval Kishore Vs. Commissioner of Income Tax), (1956) 30 ITR 338 (New Shorrock Spinning and Manufacturing Co.

Ltd. Vs. Commissioner of Income Tax), (2001) 249 ITR 319 (Commissioner of Income Tax Vs. Sharpedge Ltd.), (1997) 224 ITR 342 (Jonas Woodhead and Sons (India) Ltd. Vs. Commissioner of Income Tax), (2008) 298 ITR 194 (SC) (Deputy Commissioner of Income Tax Vs. Core Health Care Ltd.,), (2008) 299 ITR 85 (SC) (Deputy Commissioner of Income Tax Vs. Gujarat Alkalies and Chemicals Ltd.), (2006) 205 CTR (Mad) 498 (Commissioner of Income Tax Vs. Carborandum Universal Ltd.) and (2007) 293 ITR 459 (Mad) (Commissioner of Income Tax Vs. Rane (Madras) Ltd.).

26. In (1955) XXVII ITR 34 (Assam Bengal Cement Co. Ltd., Vs. Commissioner of Income Tax, West Bengal) the Hon'ble Supreme Court stated how to identify an expenditure either as capital expenditure or revenue expenditure as under at page 45:

".....If the expenditure is made for acquiring or bringing into existence an asset or advantage for the enduring benefit of the business it is properly attributable to capital and is of the nature of capital expenditure. If on the other hand it is made not for the purpose of bringing into existence any such asset or advantage but for running the business or working it with a view to produce the profits it is a revenue expenditure....." (Emphasis added)

27. In the decision reported in (1997) 224 ITR 414 (Ballimal Naval Kishore Vs. Commissioner of Income Tax), the Hon'ble Supreme Court followed the Division Bench decision of the Bombay High Court reported in (1956) 30 ITR 338 (New Shorrock Spinning and Manufacturing Co. Ltd. Vs. Commissioner of Income Tax), in which the Hon'ble The Chief Justice Changla has laid down the principle in the following words:-

"If the amount spent was for the purpose of bringing into existence a new asset or obtaining a new advantage, then obviously such an expenditure would not be an expenditure of a revenue nature but it would be a capital expenditure, and it is clear that the deduction which the Legislature has permitted under section 10(2)(v) is a deduction where the expenditure is a revenue expenditure and not a capital expenditure."

28. In the decision reported in (2001) 249 ITR 319 (Commissioner of Income Tax Vs. Sharpedge Ltd.) a Division Bench of the Delhi High Court has held as under:

".....The interest paid was in respect of the asset, which was acquired on an outright basis that was intimately linked with the value of the asset. That determines the character of the expenditure and it was capital in nature; the Tribunal was not justified in holding, otherwise....."

29. In the decision reported in (1997) 224 ITR 342 (Jonas Woodhead and Sons (India) Ltd. Vs. Commissioner of Income Tax) the Hon'ble Supreme Court held as under at page 348 :

".....And, therefore, the "once for all" test as well as the test of "enduring benefit" may not be conclusive. Consequently, the various terms and conditions of the agreement, the advantage derived by an assessee under the agreement, the payment made by the assessee under the agreement, are all to be taken into account and then it has to be decided whether the whole or a part of the payment

thus made is capital expenditure or revenue expenditure."

30. In the decision reported in (2008) 298 ITR 194 (SC) (Deputy Commissioner of Income Tax Vs. Core Health Care Ltd.,) the Hon'ble the Supreme Court was dealing with a question of law viz., "

"Whether interest paid in respect of borrowings on capital assets not put to use in the concerned financial year can be permitted as allowable deduction under section 36(1)(iii) of the Income-tax Act, 1961 ?"

while dealing with the said question, in paragraph 8, the Hon'ble Supreme Court has observed as under:

"8. Interest on moneys borrowed for the purposes of business is a necessary item of expenditure in a business. For allowance of a claim for deduction of interest under the said section, all that is necessary is that, firstly, the money, i.e., capital, must have been borrowed by the assessee; secondly, it must have been borrowed for the purpose of business; and, thirdly, the assessee must have paid interest on the borrowed amount (see Calico Dyeing and Printing Works Vs. CIT (1958) 34 ITR 265 (Bom). All that is germane is : whether the borrowing was, or was not, for the purpose of business. The expression "for the purpose of business" occurring in section 36(1)(iii) indicates that once the test of "for the purpose of business" is satisfied in respect of the capital borrowed, the assessee would be entitled to deduction under section 36(1)(iii) of the 1961 Act. This provision makes no distinction between money borrowed to acquire a capital asset or a revenue asset. All that the section requires is that the assessee must borrow capital and the purpose of the borrowing must be for business which is carried on by the assessee in the year of account. What clause (iii) emphasises is the user of the capital and not the user of the asset which comes into existence as a result of the borrowed capital unlike section 37 which expressly excludes an expense of a capital nature. The Legislature has, therefore, made no distinction in section 36(1)(iii) between "capital borrowed for a revenue purpose" and "capital borrowed for a capital purpose". An assessee is entitled to claim interest paid on borrowed capital provided that capital is used for business purpose irrespective of what may be the result of using the capital which the assessee has borrowed. Further, the words "actual cost" do not find place in section 36(1)(iii) of the 1961 Act which otherwise find place in sections 32, 32A, etc. of the 1961 Act. The expression "actual cost" is defined in section 43(1) of the 1961 Act which is essentially a definition section which is subject to the context to the contrary."

It went on to add as under in paragraph 10:

"10.....The "actual cost" of an asset has no relevancy in relation to section 36(1)(iii) of the 1961 Act. This reasoning flows from a bare reading of section 43(1). Section 43 defines certain terms relevant to income from profits and gains of business and, therefore, the said section commences with the words "In sections 28 to 41 and unless the context otherwise requires" "actual cost" shall mean the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority. In other words, Explanation 8 applies only to those sections like sections 32, 32A, 33 and 41 which deal with concepts like depreciation. The concept of depreciation is not there in section 36(1)(iii). That is why the

Legislature has used the words "unless the context otherwise requires". Hence, Explanation 8 has no relevancy to section 36(1)(iii). It has relevancy to the aforementioned enumerated sections. Therefore, in our view Explanation 8 has no application to the facts of the present case."

The Supreme Court also considered the proviso which was inserted in Section 36(1)(iii) of the 1961 Act and made it clear that the proviso was inserted by Finance Act, 2003 with effect from April 1, 2004 and will not apply to the assessment years prior to that date. It also held that the said proviso would operate prospectively. The Hon'ble Supreme Court distinguished the decision in the case of Challapalli Sugars Ltd. (1975) 98 ITR 167 (SC) by pointing out that that was a case where the company had not started production when it borrowed the amount in question.

31. The above said decision of the Hon'ble Supreme Court was subsequently followed in (2008) 299 ITR 85 (SC) (Deputy Commissioner of Income Tax Vs. Gujarat Alkalies and Chemicals Ltd.) and the Hon'ble Supreme Court made it clear that the interest on borrowed capital by the assessee for establishing new project was allowable as business expenditure.

32. The conditions to claim the benefits under Section 36(1)(iii) has been clearly set out by the Division Bench of this Court in the decision reported in (2006) 205 CTR (Mad) 498 (Commissioner of Income Tax Vs. Carborandum Universal Ltd.). In paragraph 5 the Division Bench has stated the legal position as under:

"5. In respect of question No.3, the assessee claimed deduction under s.36(1)(iii) of the Act, which reads as follows:

"36(1)(iii). The amount of the interest paid in respect of capital borrowed for the purposes of the business or profession."

From a very reading of the above clause, it is clear that three conditions are required to be specified to enable the assessee to claim deduction in respect of interest on borrowed money, which are as follows:

(1) There should be borrowal of money by the assessee;

(2) It must be for the purpose of business; and (3) The interest must be paid on the borrowed money.

In this case, both the authorities below had given a concurrent finding that the assessee borrowed money for the purpose of expansion of the projects and paid interest on the borrowed money. Hence, the claim of the assessee under s.36(1)(iii) of the Act is in conformity with law."

33. in another Division Bench decision of this Court reported in (2007) 293 ITR 459 (Mad) (Commissioner of Income Tax Vs. Rane (Madras) Ltd.), the question that arose for consideration was whether the expenditure incurred by the assessee in setting up a new factory at Pondicherry is revenue in nature on the ground that it is only an extension of the existing business, the Division

Bench noted that for the assessment years 1996-97 and 1997-98, the assessee incurred an expenditure of `.2,08,00,000/- and `.9,48,405/- respectively. The break-up of said expenditure related to interest on Exim Bank Loan, various raw materials consumer, stores consumed, tools consumed, travel expenses for foreign and domestic travel of employees on training and other official purposes, salaries and wages, printing and stationery, computer stationery, freight outward, power and fuel, insurance, repairs and maintenance, central overheads-Madras plant and other various miscellaneous expenses. The Division Bench applying various High Courts as well as the Hon'ble Supreme Court decisions, held that such such expenditure were revenue expenditure. The Special Leave Petition to the Hon'ble Supreme Court in S.L.P.No.10373 of 2008 was also dismissed by an order dated 16.03.2009.

34. From the above decisions the test for identifying an expenditure as to whether it is a revenue expenditure or capital expenditure can be stated as under :-

(1) If the amount spent was for the purpose of bringing into existence a new asset or obtaining a new advantage, it would be a capital expenditure.

(2) If on the other hand, it is not made for the purpose of bringing into existence any such asset or advantage but for running the business or working it with a view to produce the profits, it is a revenue expenditure.

(3) For instance if the interest paid was in respect of the asset, which was acquired on an outright basis than it was intimately linked with the value of the asset. That determines the character of the expenditure and it was capital in nature.

Keeping the about tests in mind, when we examine the case on hand, the various kinds of expenditures relating to the sum of `.6,84,78,570/-, the details of which have been mentioned in paragraphs 19 and 20, disclose that all those expenditures were incurred in the relevant years for the purpose of manufacture of sugar in the respective factories with a view to earn profits and therefore they are nothing but revenue expenditure only.

35. In other words, applying the principles set out in the various decisions referred to above, as stated earlier, the expenses which were in a sum of `.6,84,78,570/- were all expenses which were incurred by way of salaries, wages, bonus, provident fund contribution, workmen welfare expenses, power, fuel and water, manufacturing expenses, rent for office building etc., were all expenses which were incurred for the purpose of running of the business and it cannot be held to be by way of investment. In fact there was no dispute that whatever investments made for Baramba unit and Dhenkanal unit were capitalised and were never claimed by way of revenue expenditure.

36. Since the Hon'ble Supreme Court as well as our High Court has made a distinction as between investment in respect of an asset created and expenses incurred for the actual running of the business which makes the difference as between capital expenditure and revenue expenditure and in the case on hand, the various expenses referred to at paragraphs 19 and 20 of our order were all expenses incurred for that purpose namely business expenditure, the order impugned in this appeal

in having allowed such expenditure as revenue expenditure is perfectly justified.

37. Therefore, applying the various decisions referred to above, we do not find any scope to interfere with the order impugned herein. The question of law is therefore answered in favour of the assessee and against the Revenue. The appeal fails and the same is dismissed. No costs.

kk To The Income Tax Appellate Tribunal 'C' Bench, Chennai