

Supreme Court of India

Belpahar Refractories Ltd. vs Commissioner Of Income-Tax on 19 July, 1994

Equivalent citations: 1994 209 ITR 471 SC

Bench: Y Dayal, N Venkatachala, K Paripoornan

JUDGMENT

1. These appeals were stated to be concluded by a decision of this Court In Travancore Sugars and Chemicals Ltd, v. CIT . We have gone through the judgment and on first impression it may appear to be so. But the problem in the case is that the first question framed by the learned Income-tax Appellate Tribunal is as follows see :

(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in deleting-

Rs. 3,08,012 (in assessment year 1962-63) Rs. 5,57,658 (in assessment year 1963-64) Rs. 5,79,336 (in assessment year 1964-65) Rs. 3,57,681 (in assessment year 1965-66) and Rs. 5,87,729 (in assessment year 1966-67) on the ground that the said capital expenditures were converted into revenue expenditures and if the said deletions were legal ?

2. The question as framed proceeds on the basis that the expenditure in dispute is a capital expenditure for acquiring a capital asset. The question as framed was never the question before this Court in Travancore Sugars and Chemicals Ltd.'s case . There, this Court at page 571 pointed out that :

On the contrary, the very nature of the payments excludes the idea that any connection with the capital sum was intended by the parties.

3. Therefore, the case of Travancore Sugars and Chemicals Ltd. cannot assist us in arriving at a decision. Once the finding is given by the Tribunal as finding of fact, namely, that the amount in dispute was really relatable to acquisition of a capital asset, the question of conversion to revenue expenditure does not arise. In fact, one cannot follow such a decision. Unfortunately, the assessee never asked for such a question on the finding whether the amount in dispute was spent for acquisition of a capital asset. In fact, the plea before us is that the payments which are made have no connection with the acquisition of a capital asset as no price was fixed. No such question arises in the present case. For the aforesaid reasons, the appeals fail and are dismissed. The parties are directed to bear their own costs of these appeals.