

Supreme Court of India

Indore Municipal Corporation vs Commissioner Of Income-Tax on 11 March, 1997

Equivalent citations: 2001 247 ITR 803 SC

Bench: S Agrawal, G Pattanaik

ORDER

1. There was a delay of seven days in filing the special leave petition-While granting special leave, by the order dated August 5, 1983, no order was passed on the application for condonation of delay. We hereby condone the delay in filing of the special leave petition.

2. We have heard learned counsel for the assessee on the appeal and have perused the impugned judgment of the High Court (see [1981] 132 ITR 540). The following questions which were referred to the High Court by the Income-tax Appellate Tribunal have been answered against the assessee and in favour of the Revenue (page 541);

"(1) Whether, on the facts and in the circumstances of the case, the expenditure incurred by the assessee towards construction of the metal roads on trenching grounds was an item of revenue deduction ? and (2) Whether, on the facts and in the circumstances of the case, the assessee was entitled to depreciation on the amount of the cost of construction of metal roads on the trenching grounds ?"

3. In answering the first question the High Court has relied upon a decision of this court in Travancore Cochin Chemicals Ltd. v. CIT [1977] 106 ITR 900. In view of the said decision, it has been rightly held that the expenditure incurred by the assessee towards construction of the metal roads on trenching grounds was not a revenue expenditure.

4. As regards the second question, learned counsel for the assessee has invited our attention to the decision of this court in CIT v. Gwalior Rayon Silk Manufacturing Co, Ltd, [1992] 196 ITR 149. Here the roads were constructed to approach about 500 trenches for dumping waste and night soil in the trenches and transporting the processed manure. The High Court while answering the said question has said that the roads could not be treated as "building". We are in agreement with the said view of the High Court. In CIT v. Gwalior Rayon Silk Manufacturing Co. Ltd, , this court, while construing the expression "building" in Section 32 of the Income-tax Act, 1961, has observed that the roads and roadways are adjuncts of the building lying within the factory area linking them together and are being used for carrying on its business by the assessee.

5. In the present case, there is no other construction except the roads. It cannot, therefore, be said that the roads by themselves would constitute buildings.

6. For the reasons aforementioned, we do not find any merit in the appeal and the same is accordingly dismissed. No order as to costs.