

ITEM NO.108

COURT NO.10

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 2984/2007

COMMNR. OF INCOME TAX, GUJARAT

Appellant(s)

VERSUS

SARANGPUR COTTON MFG. CO. LTD.

Respondent(s)

Through Official Liquidator, High Court of Gujarat

(With appln. (s) for amendment of cause title and interim relief and office report)

Date : 28/03/2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)

Ms. Pinky Anand,ASG
Mr. K.Radhakrishnan,Sr.Adv.
Mr. Arijit Prasad,Adv.
Ms. Gargi Khanna,Adv.
Mr. Rajesh Ranjan,Adv.
Mr. Shashank Dewan,Adv.
Mr. Saudamini Sharma,Adv.
For Mrs. Anil Katiyar,Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

Pending application is also disposed of.

(Anita Malhotra)
Court Master

(Chander Bala)
Court Master

(Signed order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2984 OF 2007

Commissioner of Income Tax, Gujarat ...Appellant

VS.

Sarangpur Cotton Mfg.Company Ltd. ...Respondent
Through Official Liquidator,
High Court of Gujarat

O R D E R

The present appeal has been filed against the judgment and order dated 3rd July, 2002 passed by the High Court of Gujarat at Ahmedabad in Income Tax Reference No.141 of 1989. The following question of law has been raised in the appeal:

"Whether the High Court was right in law in holding that the Assessee was entitled to deduction on account of revenue expenditure incurred on machineries replaced for the value of Rs.26,84,235/-"

Briefly stated the facts, which give rise to this appeal, are as follows:

The respondent-assessee is a public limited company and is engaged in the business of manufacturing cotton yarns and textile. During the Assessment year 1974-1975, the respondent-assessee has claimed deduction of Rs.35,49,011/- as repairs and replacement of machinery

expenditure on conversion material etc. The assessing authority disallowed a sum of Rs.27,71,270/- out of the aforesaid revenue expenditure claimed by the respondent on the ground that it related to installation of the above machinery and is in the nature of outlay of capital expenditure.

Feeling aggrieved, the respondent-assessee preferred appeal before the Commissioner of Income Tax Appeals. The Commissioner of Income Tax Appeals vide order dated 29th September, 1983 allowed Rs.26,84,235/- as admissible revenue expenditure and at the same time directed the assessing officer to withdraw the depreciation and development rebate granted on these capitalized items, as they have been treated as revenue expenditure.

The Revenue preferred an appeal before the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal vide order dated 12th September, 1985 agreed with the order passed by the Commissioner of Income Tax Appeals and dismissed the appeal.

Still feeling aggrieved, the Revenue department preferred a Reference Application before the Gujarat High Court. The High Court by the impugned order had answered the question of law raised by the appellant herein in favour of the respondent-assessee.

We have heard Ms. Pinky Anand, learned Additional Solicitor General appearing on behalf of the appellant-revenue department. No one has entered appearance on behalf of the respondent-assessee.

Learned Additional Solicitor General submitted that the view taken by the Gujarat High Court by relying on two decisions in the case of *CIT vs. Baroda Industrial Development Corporation Ltd.* (1992) 198 ITR 716 and in the case of *CIT vs. Satyadev Chemical Ltd.* (1997) 226 ITR 95 has been impliedly overruled by this Court in the case of *Commissioner of Income Tax, Madurai v. Sarvana Spining Mills(P) Ltd.* (2007) 7 SCC 298. She submitted that each items for which deduction under the head "current repairs" was sought is a machine by itself and therefore deduction under Section 31(i) cannot be allowed. She invited our attention to paragraphs 9, 10, 12, 13 and 14 of the judgment in the case of *Sarvana Spinning Mills (P) Ltd. supra* and submitted that if the current repairs relate to independent machines itself instead of repair of a part of that machine, deduction cannot be granted under Section 31(i) of the Income Tax Act, 1961. In *Sarvana Spinning Mills (P) Ltd. supra* this Court has held that in a textile mill there are several departments/divisions. In each department/division there are several machines and perform different functions. Therefore, when each of the Department/Division perform different functions, repair/substitution of an old

machine will not come within the definition of the word "current repairs" and deduction cannot be claimed thereunder.

In this view of the matter, we are of the considered opinion that the impugned judgment and order passed by the Gujarat High Court as also the orders passed by the Income Tax Appellate Tribunal and the Commissioner of Income Tax Appeals on this issue cannot be sustained and are thereby set aside. It is held that the respondent is not entitled for any deduction under the head "current repairs" as claimed and allowed by the two authorities.

The appeal succeeds and is allowed.

There shall be no order as to costs.

Pending application, if any, also stands disposed of.

.....J.
[R.K. AGRAWAL]

.....J.
[MOHAN M.SHANTANAGOUDAR]

New Delhi;
March 28, 2017.

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