

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)

(Chander Bala)

Court Master

Court Master

(Signed order is placed on the file.)

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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 3 rd

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:

â- S 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/-â- \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

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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 29 th

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 12 th

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.

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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 Spinning Mills(P) Ltd. (2007) 7 SCC 298. She submitted that each item for which deduction under the head "Current repairs" \235 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

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machine will not come within the definition of the word "Current repairs" \235 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" \235 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.

