

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 909 OF 2008
(Arising out of S.L.P.(C) No.11507/2005)

Commissioner of Income Tax

...Appellant

Versus

M/s. Oswal Agro Mills Ltd.

...Respondent

WITH CIVIL APPEAL NO.3170 OF 2006

ORDER

In S.L.P.(C) No.11507/2005:

Delay condoned.

Leave granted.

In this case, substantial question of law arose before the High Court under Section 260-A of the Income Tax Act. The said question was as follows:

"Whether the assessee is entitled to deduction of Rs.1,16,89,327/- incurred as 'Issue Management Expenses'?"

Reading the judgments of the Tribunal and the High Court, we find that the assessee has succeeded only on the basis of 'Rule of Consistency'. In our view, the High Court should have examined the nature of the said expenses, namely, 'Issue Management Expense'. In our view, substantial question of law did arise for determination.

...2/-

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Consequently, the impugned judgment of the High Court is set aside and the matter is remitted to the High Court for fresh consideration in accordance with law.

The Appeal is, accordingly, allowed.

No order as to costs.

In C.A.No.3170/2006:

Following our above order in the appeal arising out of S.L.P.(C) No.11507/2007, while setting aside the impugned judgment, we remit the matter to

the High Court for fresh consideration in accordance with law.

The Appeal is allowed accordingly.

No order as to costs.

.....J.
(S.H. KAPADIA)

.....J.
(B. SUDERSHAN REDDY)

New Delhi,
February 01, 2008.
ITEM NO.51

COURT NO.7

SECTION IIIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).11507/2005

(From the judgement and order dated 10/08/2004 in ITA No.2/2002 of the HIGH COURT OF DELHI AT NEW DELHI)

COMMISSIONER OF INCOME TAX

Petitioner(s)

VERSUS

M/S. OSWAL AGRO MILLS LTD.

Respondent(s)

(With appln(s) for c/delay in filing SLP and office report)

WITH Civil Appeal No. 3170 of 2006
(With office report)
(FOR DIRECTIONS)

Date: 01/02/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. K.K. Senthilvelan, Adv.
Mr. Navin Prakash, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. Sidharth Chaudhary, Adv.
Mr. Rahul Gupta, Adv.
Mr. Bhargava V. Desai, Adv.
Ms. Reema Sharma, Adv.

UPON hearing counsel the Court made the following
ORDER

Leave granted in S.L.P.(C) No.11507/2005.

The Appeals are allowed in terms of the signed order. No order as to costs.

(N. Annapurna)
Court Master
(Signed order is placed on file)

(Madhu Saxena)
Court Master