THE HON'BLE SRI JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

I.T.T.A No.285 of 2003

ORDER: (Per Hon'ble Sri Justice Dilip B. Bhosale)

In this appeal, the following substantial questions of law arise for our consideration.

> "(A) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in allowing the assessee's claim in respect of depreciation to the tune of Rs.28,96,082/- in respect of its assets?
>
> (B) Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that the assessee's case is squarely covered by the decision of the Supreme Court in **CIT Vs. P.J.Chemicals Limited** (210 ITR 830)?"

Sri. S.Vivek Chandra Sekhar, learned Counsel for the appellant, at the outset, invited our attention to the order of this Court dated 03.07.2013 passed in ITTA No.1 of 2001 between the same parties and submitted that the questions raised in the instant appeal are squarely covered by this order.

The order of this Court dated 03.07.2013 reads thus:

> "This appeal though admitted by order, dated 30.01.2001, of this Court, no substantial question of law was formulated at the time of admission. Hence, Section 260A of the Income Tax Act, 1961 obligated this Court to formulate the substantial question of law. Therefore, we formulate the following substantial question of law.
>
> > "Whether on the facts and circumstances of the case, the decision of the Supreme Court in Commissioner of Income Tax vs. P.J. Chemicals Limited reported in 210 ITR 830 has any application?"
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> We have gone through the impugned judgment and order of the learned Tribunal and we have heard the learned counsel for the appellant, who argues that the Supreme Court in its judgment has not granted subsidy to the entire grant. Therefore, the said judgment has no application at all to the present case.
>
> We are unable to accept his argument. We are of the view that subsidy is nothing but grant whether it may be small portion or whole portion. Here the entire grant amount was received from the

> Government. Therefore, the issue decided by the Supreme Court in that case has complete application to the present case and in our view the learned Tribunal has correctly applied so. Therefore, we do not see any merit in the appeal and the same is accordingly dismissed."

Learned Counsel for the revenue fairly states that in view of the aforesaid order dated 03.07.2013 passed in ITTA No.1 of 2001, the questions framed in the instant appeal may be answered in favour of the assessee and against the revenue. Learned Counsel for the respondent also joined him in making such a prayer.

Hence, both the questions are answered in favour of the assessee and against the revenue. The appeal is accordingly disposed of with no order as to costs.

(DILIP B. BHOSALE, J)

(A.RAMALINGESWARA RAO, J)

10.02.2015
vs