IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-84-2015
Date of decision:- 21.05.2015

M/s Rana Sugars Ltd.

...Appellant

Versus

The Deputy Commissioner of Income Tax, Chandigarh.

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Nitin Kaushal, Advocate,
for the appellant.

* * * *

S.J. VAZIFDAR, A.C.J. (ORAL)

This is an appeal against the order of the Tribunal dated 08.08.2014 partly allowing the appellant's appeal against the order of the CIT (Appeals).

2. The appellant has raised the following substantial questions of law:-

> *"(i) Whether the learned Tribunal has erred in law by failing to apply the cardinal rule of strict interpretation of a taxation statute?*
>
> *(ii) Whether the learned Tribunal is correct in law in not appreciating the purposive, conscious and intentional usage of the term 'PAYABLE' by the Legislature in Section 40(a)(ia) of the Income Tax Act?*
>
> *(iii) Whether the learned Tribunal has erred in law in not appreciating the settled rule of construction that if two reasonable constructions of a taxing provision are possible, then that construction which favours the assessee must be adopted?*
>
> *(iv) Whether the learned Tribunal has erred in law in holding that only 1% repair and maintenance expenses are reasonable?*

> *(v) Whether the learned Tribunal is justified in law and fact in restricting the disallowance on repair and maintenance to Rs. 1,50,000/- without there being any legal basis for the same?"*

3. Question (i) is general in nature and requires no consideration.

4. Questions (ii) and (iii) are decided against the appellant/assessee by our judgement dated 29.04.2015 rendered in a group of appeals the first of which is ITA-716-2009, titled as *P.M.S. Diesels Vs Commissioner of Income Tax-2, Jalandhar.*

5. With respect to questions (iv) and (v), the appellant had claimed a deduction of ₹ 20,84,417/- towards cost of repair of its building. The Assessing Officer disallowed the claim to the extent of ₹ 3,89,417/- on the basis of 1% value of the building. The CIT (Appeals) upheld the same. The Tribunal rightly accepted the appellant's contention that 1% criteria could not be followed year after year. It was followed for the assessment year 2004-2005. The present matter pertains to the assessment year 2006-2007. The extent of repair is bound to increase over the years. Considering the facts of the case, the Tribunal restricted the disallowance of repair and maintenance at ₹ 1,50,000/-. In the facts and circumstances of the case, we see no reason to interfere with the exercise of discretion.

6. Questions (iv) and (v) are, therefore, answered against the appellant.

7. The appeal is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

21.05.2015
Amodh