IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.36 OF 2000

Madhurkar Sahakari Sakhar Karkhana Ltd. .. Applicant
v/s.
Commissioner of Income Tax, Nashik .. Respondent

Mr. Ashok Patil i/b S.M. Lala for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 30th SEPTEMBER, 2016.

P.C.

1. None appears on behalf of the respondent Revenue inspite of service having been completed on 4th August, 2000, as annexed to the affidavit dated 23rd August, 2016 proving service upon the respondent Revenue.

2. By this Reference under Section 256(1) of the Income Tax Act, 1961 (Act), the Income Tax Appellate Tribunal (Tribunal) seeks our opinion on the following substantial questions of law :-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the amount of Rs.2,01,160/- (87-88), Rs. 2,19,090/- (88-89) and

Rs.4,62,705/- + Rs.25,000/- (89-90) paid by the assessee to its labourers engaged in harvesting and transporting of sugarcane, voluntarily and by way of encouragement was not incurred wholly and exclusively for the purpose of business?

(ii) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the contribution by the assessee to State Education fund of Rs.50,000/- (87-88), Rs.50,000/- (88-89) and Rs.97,284 (89-90) paid as per Sec.68 of the Maharashtra Co-operative Societies Act was not the expenditure for the purpose of business?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that the amount of Rs.39,354/- spent on tree plantation and maintenance constructed capital expenditure and the same was not allowable inasmuch as in our opinion, the above questions are questions of law and arises out of the aforesaid order of the Tribunal, we hereby draw up a statement of the case to refer the same?

3. Re. Question (i) :- This question stands concluded in favour of the applicant assessee by the decision of this Court in ***Commissioner of Income Tax Vs. Samarth Sahakari Sakhar Karkhana Ltd. 294 ITR 540***. In the above view, question (i) is answered in the negative i.e. in favour of the applicant assessee and against the Revenue.

4. Re. Question (ii) :- So far as question (ii) is concerned, the same stands concluded against the Revenue and in favour of the applicant assessee by the decision of this Court in ***Krishna Sahakari Sakhar Karkhana Ltd. Vs. Commissioner of Income Tax , 229 ITR 577***. In the above view, the question (ii) is answered in the negative i.e. in favour of the applicant assessee and against the Revenue.

5. So far as question (iii) is concerned, Mr. Patil, learned Counsel for the applicant assessee, on instructions, does not press the question. In the above view, this question is returned unanswered.

6. The Reference is disposed of in the above terms.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**