



ITA No.49 of 2002 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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**Income Tax Appeal No. 49 of 2002 (O&M)
Date of Decision: 02.09.2024**

The Haryana Cooperative Sugar Mills Ltd.

. . . . Petitioner

Vs.

Commissioner of Income Tax and another

. . . . Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Amit Khatkar, Advocate for the appellant.

**Ms. Gauri Neo Rampal, Sr. Standing Counsel
for the respondents.**

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The present appeal has been preferred in year 2002 against the order passed in appeal by the Commissioner of Income Tax (for short 'CIT') and Income Tax Appellate Tribunal (for short 'ITAT') whereby the CIT partly allowed the appeal and ITAT also upheld the order passed by the CIT while rejecting the appeal of the petitioner. The revenue had also challenged the order passed by the CIT appeal. The appeal which was preferred in 2002 remained pending and this Court did not frame any questions of law.

2. We have heard learned counsel for the parties at length and we find that the ITAT upheld the order passed by the CIT. The sole contention raised by learned counsel for the petitioner is that the liability is accrued only after the decision was taken by the Government to make payments in installments, the decision of the Income Tax authority to treat the liability as

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accrued even prior to the State decision and this Court before held that the liability was falling under Section 43-B of the Income Tax Act, for payment of interest on tax, from earlier year was unjustified. However, we find that the ITAT has discussed the said arguments at length in paragraph 14 of the order dated 21.06.2001, which reads as thus:-

“14. In the aforementioned facts and circumstances and considering the arguments which for both the grounds is identical, we are of the opinion that no interference is called for in the impugned order. It is seen that the assessee before us has placed reliance on primarily Mahalaxmi Sugar Mills Co. Ltd. Vs. CIT cited supra which was subsequently followed by the Delhi High Court in 245 ITR 807. The proposition laid down therein does not render any help to the assessee and as seen, the said decision has already been considered in the impugned order. Similarly, other decisions cited before us namely CIT Kerala Vs. Bemini Cashew Sales Corporation 65 ITR 643 also do not advance the case of the assessee. The various pages of the Paper Book to which our attention was invited also do not in any way make out a case in respect of the interest on purchase price that the liability accrued on 11.11.87. These various documents merely show that the assessee before us along with other sugar mills was embarked on an exercise to waive the interest payable to the Government and to arrive at a statement beneficial to the assessee in terms of payment by way of instalment. The proof of such an exercise does not in any way establish that the liability accrued when the State Government allowed them to make payment in instalments. Consequently, due to the facts and circumstances of the case and the reasons given in the impugned order, we are of the opinion that the liability in respect of this payment did not accrue in the relevant assessment year. Since the assessee is following a mercantile system of accounting, the claim of liability accrued. The liability of a past year cannot be taken into account for computing the income of a subsequent year. As far as the relief granted by the CIR(A) to the extent of Rs.4,77,094/- and Rs.2,09,925/-, we are of the opinion that the relief so granted was fully justifiable in law. Similarly, in respect of the interest paid to



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cane suppliers, there is no reason or basis to consider the arguments that this amount accrued in the relevant assessment year.”

3. We therefore reject the contention of learned counsel for the appellant and find that there is no substantial question of law required to be examined again by this Court and the decision of the Tribunal does not warrant any interference with regard to the second question relating to the interest payable and the contention of the appellant that the same was paid on 11.04.1989, the ITAT had remanded the matter to the Assessment Officer to decide the same in accordance with law after taking cognizance of the evidence placed on record with regard to the payment having been made within time and therefore allowable under proviso to Section 43-B of the Act. The case has remained pending before this Court since long and the decision by the Assessment Officer on remand with regard to the aforesaid issue has not been got to the fore by the appellant. We need not further dealt with the other issues as the same are factually in nature.

4. The present appeal being devoid of any merits, is accordingly dismissed.

5. All pending application(s), if any, also stand(s) disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

September 02, 2024
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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |