THE COMMISSIONER OF INCOME TAX

v.

M/S CYNAMID INDIA LTD.

APRIL 13, 1999

[S.P. BHARUCHA AND R.C. LAHOTI, JJ.]

Income-tax Act 1961—Section 35 B & C—Exemption claimed towards expenditure incurred—Disallowed by the Tribunal on the ground that the product on which claim was made was not an agricultural product—High Court set aside the order of Tribunal—On appeal, held, the term "agricultural product" should be construed liberally and exemption claimed could be allowed.

Respondent—Assessee manufactured animal feed with rice husk as the main raw material. The Assessee incurred certain expenditure towards distribution of Literature and pamphlets containing modern techniques for increasing yields, amongst the cultivators. The assessee claimed deduction U/s 35 B and C of the Income-tax Act for the expenditure incurred for distribution of pamphlets and also for export promotion.

The Tribunal disallowed the deduction claimed by the assessee on the ground that rice husk was not a "Product of agriculture" because the same was not the direct outcome of agricultural endeavour.

Rice husk is the process of dehusking and therefore paddy alone could be considered as an agricultural product. The High Court however disagreed with the view taken by the Tribunal and set aside the order of the Tribunal. Hence this appeal.

Dismissing the appeal, this Court

HELD : The High Court was right in holding that the operation of dehusking of paddy is not an industrial or manufacturing operation; it is an agricultural operation; both rice and husk remain in their natural form as a result of dehusking and are covered by the term "Agricultural Product" which is to be construed liberally so as to include not only the primary product but also a product which undergoes a simple operation. [603-E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4403-4404

A of 1996.

From the Judgment and Order dated 8.12.93 of the Bombay High Court in I.T.R. NO. 41 of 1982.

J. Ramamurthy, S.K. dwivedi, S. Rajappa and B. Krishna Prasad for the B Appellant.

Ex-parte for the Respondent.

The Judgment of the Court was delivered by

C **R.C. LAHOTI, J.** In a reference under Section 256 of the Income-tax Act, 1961, the following three questions amongst others were answered by the High Court in favour of the assessee and against the Revenue :-

For Assessment Years 1974-75 and 1975-76.

D 4. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee was not entitled to deduction of Rs. 66,352 plus Rs. 1,60,428 for assessment year 1974-75 and Rs. 2,00,599 for the assessment year 1975-76 under Section 35C of the Income Tax Act, 1961 ?

For Assessment Year 1974-75.

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6. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the assessee's claim for weighted deduction at 33 1/3% being export promotion expenses incurred from 1.12.1972 to 28.2.1973 and at 50% on Rs. 42,207 being export promotion expenses from 1.3.1973 to 30.11.1973 F ought not to be allowed ?

For Assessment Year 1975-76.

8. Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the weighted deduction under G Section 35B of the Income-tax Act, 1961 on only 50% of the amount of Rs. 20,706 ought to be allowed ?

There were in all eight questions forming subject-matter of reference before the High Court and as to which the Revenue had filed these appeals. However, vide order dated 3.11.1995, this Court has entertained the appeals H confined to abovesaid three questions only.

So far as question numbers 6 and 8 are concerned, at the very outset the learned counsel for the Revenue has very fairly stated that the quantum of revenue involved is very small and therefore the Revenue does not press the appeals to that extent. He has made his submissions confined to question no. 4 only.

Section 35C of the Income-tax Act, 1961 (as it stood during the assessment years 1974-75 and 1975-76) provided for deduction in respect of certain expenses referable to use as raw material of any product of agriculture etc. in manufacture or processing. The assessee manufactures an animal feed known as "AUROFAC" wherein rice husk is mainly used as raw-material. The deductions claimed by the assessee were in respect of the expenditure incurred by it in disseminating literature, pamphlets etc. containing information on modern techniques and methods of agriculture designed for increasing the yield of rice amongst the cultivators and farmers who grow rice. The Tribunal disallowed the deduction on the ground that the rice husk was not a 'product of agriculture' because it was not a direct outcome of agricultural endeavour. According to the Tribunal what was produced by the cultivator was paddy which alone could be considered as an agricultural product. The husk was the result of process of de-husking which was not an agriculture.

The High Court has answered the question in favour of the assessee and against the Revenue. Having referred to the definition of 'agricultural product' in Black's Law Dictionary, the High Court has held that the operation of de-husking paddy is not an industrial or manufacturing operation as commonly understood; it is essentially an agricultural operation and such changes as are brought about in the product are an outcome of agricultural operation. Both rice and husk remain in their natural form as a result of de-husking and are covered by the term 'agricultural product'.

The High Court has also formed an opinion that Section 35C of the Income-tax Act, 1961 was designed to encourage development of agriculture and therefore gave a weighted deduction in respect of expenditure incurred in providing to the agriculturists services and facilities specified threin. The term 'agricultural product' or 'product of agriculture' is required to be constured liberally so as to include not merely the primary product as it actually grows, but also a product which undergoes a simple operation so as to make it more saleable or more useable. The rice and the husk though separated remain as they were produced and hence continue to be 'agricultural product' or 'product of agriculture'.

A We find ourselves in entire agreement with the view taken by the High Court and hold the appeals filed by the Revenue devoid of any merit. The appeals are dismised. No costs as respondent has not made appearance.

B.K.G. Appeals dismissed.