

M/S SUNDARAM SPINNING MILLS
v.
COMMISSIONER OF INCOME TAX, MADRAS

JULY 9, 1997

[S.C. AGRAWAL AND D.P. WADHWA, JJ.]

Income Tax Act, 1961 :

Extra shift allowance—Claimed by assessee—Entitlement of—In respect of the machinery added on the basis of double and triple shifts worked by the entire concern—Held, entitled.

Appeal filed by the assessee before the High Court on the question of entitlement of extra shift allowance in respect of the machinery added during the previous year on the basis of double and triple shifts worked by the entire concern was answered in the negative. Hence this appeal by the assessee.

Allowing the appeal, this Court

HELD : In view of the judgment passed in Civil Appeal Nos. 3179-81/82 on July 9, 1997, and for the reasoning given therein, question referred to is answered in favour of the assessee and against the Revenue. [88-D-E]

M/s South India Viscose Ltd. v. Commissioner of Income Tax, [1996] SCR [1997] Vol. 6 SCC 393, relied on.

M/s South India Viscose Ltd. v. Commissioner of Income Tax, 135 ITR 206, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 376 of 1985.

From the Judgment and Order dated 25.4.84 of the Madras High Court in T.C. No. 68 of 1980.

Ms. Janki Ramachandran for the Appellant.

Dr. V. Gaurishankar, B. Krishna Prasad and S. Rajappa for the Respondent.

A The Judgment of the Court was delivered by

S.C. AGRAWAL, J. This appeal by the assessee is directed against the judgment of the High Court of Madras dated April 25, 1984 whereby the following question was answered in the negative, i.e., against the assessee and in favour of the Revenue :

B "Whether, on the facts and in the circumstances of the case, the assessee is entitled to extra shift allowance in respect of the machineries added during the previous year relevant to the assessment year 1970-71 on the basis of double and triple shifts worked by the entire concern?"

C The High Court has placed reliance on its earlier judgment dated April 24, 1984 in T.C. No. 1053-54 of 1979, *Commissioner of Income Tax v. M/s South India Viscose Ltd.*, which was based on the judgment in *M/s South India Viscose Ltd. v. Commissioner of Income Tax*, 135 ITR 206. Civil Appeal Nos. 3179-81/82 filed against the said judgment of the High Court reported in 135 ITR 206 have been allowed by our judgment pronounced today and a similar question has been answered in the affirmative. For the reasons given in the said judgment of this Court the question referred must be answered in the affirmative, i.e., in favour of the assessee and against the Revenue. The appeal is accordingly allowed, the impugned judgment of the High Court is set aside and the question referred is answered in the affirmative, i.e., in favour of the assessee and against the Revenue. No order as to costs.

R.K.S.

Appeal allowed.