



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 19.09.2008

+ **ITA 407/2007**

**CENTRAL GOVERNMENT EMPLOYEES
CONSUMER COOPERATIVE SOCIETY LTD** ... Appellant

- versus -

**THE COMMISSIONER OF INCOME
TAX** ... Respondent

Advocates who appeared in this case:

For the Appellant : Mr Salil Aggarwal with Mr Prakash Kumar

For the Respondent : Mr R. D. Jolly

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE RAJIV SHAKDHER

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in Digest ?

BADAR DURREZ AHMED, J (ORAL)

1. This appeal is directed against the Tribunal's order dated 20.01.2006 in ITA 2708/D/2002 pertaining to the assessment year 1998-1999. For the year ending 31.03.1998, the assessee had provided for a sum of Rs 72 lacs under the head "salaries and wages", pending revision. The Assessing Officer found that this liability had been provided for in relation to wage revision implemented with effect from



ascertained and had not accrued during the year which ended on 31.03.1998. Consequently, the Assessing Officer disallowed the provision of the said sum of Rs 72 lacs for the assessment year 1998-1999.

2. Being aggrieved by this disallowance, the assessee took the matter in appeal before the Commissioner of Income Tax (Appeals), who agreed with the assessee and allowed its appeal. The addition of Rs 72 lacs was consequently deleted.

3. In the revenue's appeal before the Tribunal it was urged on behalf of the revenue that a decision had been taken by the Board that the wages would be revised with effect from 01.07.1999. This was the position as existing on the date of the balance sheet, i.e., 31.03.1998. It was further contended that it was only subsequently that the Board of Directors of the assessee decided to give effect to the pay revision from 01.07.1997. This decision was taken only in the Board meeting held on 28.09.1998.

4. On behalf of the assessee it was urged that there was enough indication that the matter of revision of pay was under consideration even on 31.03.1998. Consequently, it was urged that the accrual of the



the year ending 31.03.1998. According to the assessee, the liability had accrued but it was only quantified later. The assessee also placed reliance on Accounting Standard 4 issued by the Institute of Chartered Accountants of India and submitted that note of significant events occurring after the balance sheet date was required to be taken.

5. Considering the arguments advanced before it, the Tribunal came to a conclusion that in the case of the assessee the Board of Directors had taken a conscious decision that no revision of pay should be made for the period prior to 01.07.1999, as indicated by the minutes of 65th meeting of the Board of Directors held on 28.09.1998 under agenda item No. 6. The said minutes have been placed before us in the appeal paper book. We note that under agenda item No. 6, paragraph 6.1 of the said minutes clearly indicates that the Board considered the matter in depth, particularly, the issue whether the pay scales should be revised with effect from 01.07.1997 “*in relaxation of the earlier Board decision that there should be no wage revision before 01.07.1999.*” This makes it abundantly clear that as on 31.03.1998 the Board’s decision was that there should be no wage revision before 01.07.1999. It is only in the Board meeting held on 28.09.1998 that the Board decided that the scales of pay be revised with effect from 01.07.1997 and not 01.07.1999 and that the next wage revision would be due on



decision to revise the pay scales came into existence only after 31.03.1998, that is, after the end of the previous year under assessment before the Tribunal. The Tribunal concluded that there was no liability to pay any extra amount by way of revised pay as on 31.03.1998 and such liability accrued for the first time during the financial year 1998-1999 when the decision was taken to revise the pay scales with effect from 01.07.1997 instead of 01.07.1999 as per the earlier decision.

6. Although the Tribunal took the view that no notification had been issued by the Central Government indicating the approval to Accounting Standard 4 in terms of Section 145(2) of the Income Tax Act, 1961, the Tribunal discussed the applicability of Accounting Standard 4 itself and concluded that the same was not, in any event, applicable in the facts of the present case. The Tribunal observed that the events occurring after the balance sheet should be indicative of a liability existing at the balance sheet date, but noticed subsequently, or at least the same should be relating to conditions existing on the balance sheet date. The Tribunal observed that in the case of the assessee the condition existing on the balance sheet date, that is, on 31.03.1998 was, at best, the revision of pay being contemplated with effect from 01.07.1999. The Tribunal observed that there was no indication of any revision of the pay scales payable by the assessee for



returned a finding of fact that the liability itself had been incurred by the assessee only during the financial year 1998-1999.

7. In view of these findings, the decision arrived at by the Tribunal cannot be faulted. No substantial question of law arises for our consideration. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

September 19, 2008
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