



* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ITA Nos. 964, 967, 984, 985, 986, 987, 988, 989, 991, 992
1001, 1002, 1003, 1005, 1006, 1007, 1008, 1009, 1010, 1013, 1014
1015 and 1028 of 2009

%

Dictated on : 15th October 2009

Commissioner of Income Tax

... Appellant

through :

Ms. Prem Lata Bansal with
 Ms. Anshul Sharma, Advocates

VERSUS

M/s. Mohan Meakin Ltd.

... Respondent

through :

Mr. C.S. Aggarwal, Sr. Adv. with
 Mr. Prakash Kumar, Advocate

CORAM :-

THE HON'BLE MR. JUSTICE A.K. SIKRI

THE HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

1. Whether Reporters of Local newspapers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the Judgment should be reported in the Digest?

A.K. SIKRI, J. (ORAL)

1. Common issue which is raised in all these appeals preferred by the Revenue concerns allowing the assessee the expenses incurred in puja, hawan, kirtan etc. under Section 37(1) of the Income Tax Act, 1961. The assessee is the same in all these appeals and issue relates to different assessment orders. Therefore, these appeals were taken up together for hearing.



company has units located at Solan, Ghaziabad, Lucknow, Gram and Kasauli. At these places there are sub units also. Expenditure was incurred and debited in the books of accounts under the aforesaid heads. No disallowance has been made till assessment year 1975-76. Thereafter attempts were made to disallow expenses but were deleted by the appellate authorities. From the assessment year 1984-85 till 1989-90, disallowances made were deleted by the Income Tax Appellate Tribunal, which has attained finality.

3. From the assessment year 1990-91 till 2001-02, however, the Assessing Officer (AO) started disallowing this expenditure. As per the AO, the expenditure incurred on puja, hawan, kirtan, etc. cannot be said to have been incurred wholly and exclusively for the purposes of business of the assessee and there was nothing on record to prove that puja, hawan, kirtan etc. were performed inside the factory premises. On this basis, relying upon the judgment of the Bombay High Court in *Kolapur Sugar Mills v. CIT*, 119 ITR 87, the expenditure was disallowed. The Commissioner of Income Tax (A), however, did not accept the aforesaid view of the AO and allowed the expenditure, which view has been upheld by the Income Tax Appellate Tribunal as well.
4. Ms. Bansal, learned counsel for the Revenue/appellant, strenuously



counsel appearing for the respondent, that such an expenditure
been allowed from 1984-85 till 1989-90 treating the same as business
expenditure, namely, welfare measures for the employees. Not only
this, he also pointed out that the Revenue itself had allowed the
claim of the aforesaid expenses incurred from the assessment year
2002-03 onwards. Thus, principle of consistency would clearly
become applicable in the instant case. The learned counsel for the
assessee/respondent had produced copies of the orders passed by the
Tribunal in respect of earlier years holding that the expenditure was
incurred for the welfare of the employees and, therefore, treating the
same as business expenditure it was allowed.

5. Another submission of Ms. Bansal was that even if there is no quarrel
that the expenditure is to be treated as business expenditure having
incurred for the welfare of the employees, it was necessary for the
assessee to prove the same, which was not done.
6. However, after going through the orders of the authorities below,
we find that there was no dispute in this regard. We, thus, are of the
opinion that no question of law arises and dismiss these appeals
accordingly.

(A.K. SIKRI)
JUDGE



% 15.10.2009

#

Present: Ms. Prem Lata Bansal with Ms. Anshul Sharma,
Adv. for the appellant.
Mr. C.S. Aggarwal, Sr. Adv. with Mr. Prakash Kumar
for the respondent.

+ ITA Nos. 964/2009, 967/2009, 984/2009, 985/2009,
988/2009, 989/2009, 991/2009, 1003/2009, 1014/2009,
1009/2009, 1013/2009 & 1015/2009

Due to typographical error, these cases have been included
in the batch of cases which are dismissed today being ITA No.
964/2009. In fact, they are listed for 21st October, 2009.

It is clarified that the aforesaid cases are not covered by the
orders passed in ITA No. 964/2009.


A.K. SIKRI, J.


SIDDHARTH MRIDUL, J.

October 15, 2009

mw