



16 to 18#

% 23.05.2011

Present: Ms. Prem Lata Bansal, Sr. Advocate with Mr. Deepak Anand,
Jr. Standing Counsel for the Revenue.
Mr. M.P. Rastogi, Advocate for the assessee.

+ ITA 403/2005

This appeal was admitted on the following two substantial questions of law:-

“1. Whether the Tribunal was justified in law in deleting the addition of ₹ 1,19,73,620/- being the amount realized by the assessee from the sale of additional free sale sugar quota under the incentive scheme 1988, treating the same as capital receipt?

2. Whether ITAT was correct in law in deleting the addition of ₹ 52,48,311/- made by the Assessing Officer under Section 43 B on delayed payment of PF and DLI Fund and Administrative Charges which were not paid by the assessee on or before the due date but were paid within the grace period?”

Insofar as substantial question of law no.1 is concerned, it now stands decided against the Revenue and in favour of the assessee by a judgment of Supreme Court in the case of **Commissioner of Income Tax Vs. Ponni Sugar & Chemicals Ltd.** 306 ITR 392. Likewise, Question No.2 has been decided against the Revenue by a Division Bench Judgment of this Court in the case of **Commissioner of Income-Tax Vs. Modi Spinning and Weaving Mills Co. Ltd.** 292 ITR 479.

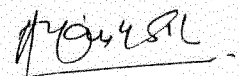
This appeal is accordingly dismissed.



ITA 404/2005 & ITA 737/2009

These appeals were admitted on one substantial question of law which is the same as question of law no.1 decided in ITA 403/2005 and has been decided against the Revenue and in favour of the assessee by a judgment of Supreme Court in the case of **Commissioner of Income Tax Vs. Ponni Sugar & Chemicals Ltd.** 306 ITR 392.

These appeals are also dismissed accordingly.


A.K. SIKRI, J.


M.L. MEHTA, J.

MAY 23, 2011/skb