

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision: 06.05.2013
ITA No. 720 of 2008

Commissioner of Income Tax Chandigarh-IIAppellant

vs.

M/s SAB Industries Limited,
Sector 26, ChandigarhRespondent

**CORAM: - HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MS. JUSTICE RITU BAHRI**

Present: - Ms. Urvashi Dhugga, Advocate for the appellant.

M/s Akshay Bhan and Alok Mittal, Advocates
for respondent.

Hemant Gupta, J

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Present appeal under Section 260-A of the Income Tax Act, 1961 (for short the 'Act') arises out of an order passed by Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh on 06.06.2006 for the assessment year 1996-97. The revenue has claimed following substantial question of law: -

“Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the amount of Rs. 4,15,011/- retained by the authorities, could not be treated as assessee's income for the year in spite of fact that income was being assessed on accrual basis”?

Respondent-company is engaged in construction work. For the relevant accounting year, the assessee filed its return of income declaring net loss of Rs. 2,85,60,913/-. The Assessing Officer made additions during the course of assessment which includes disallowance on account of retention money retained by

the authority on whose behalf work was carried out, awaiting successful completion of the work. The disallowance ordered by the Assessing Officer was set aside by the Commissioner of Income Tax (Appeals). The said order was affirmed by the Tribunal.

Learned counsel for the assessee relied upon Commissioner of Income Tax vs. Chanchani Brothers (Contractors) Pvt. Ltd., 161 ITR, 418 Patna, Commissioner of Income Tax, Simplex Concrete Piles (India) Pvt. Ltd., 179 ITR 8 (Calcutta), Commissioner of Income Tax vs. East Coast Constructions and Ind. Ltd., (2006) 283 ITR 297 (Mad), Commissioner of Income Tax vs. Associated Cables P. Ltd., (2006) 286 ITR 596 (Bom) Commissioner of Income Tax vs. P & C Constructions (P) Ltd., (2009) 318 ITR 113 (Mad) , wherein, it has been held that the right to receive retention money accrues only after the obligations under the contract are fulfilled. Therefore, it will not amount to income of the assessee in the year in which amount is retained.

In view of the consistent view of the different High Courts with which we respectfully agree, we do not find any substantial question of law arises for consideration.

Dismissed.

(HEMANT GUPTA)
JUDGE

(RITU BAHRI)
JUDGE

06.05.2013
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