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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 447 OF 2003

Commner. of Income Tax, Coimbatore .. Appellant(s)

Versus

M/s Textool Co. Ltd. .. Respondent(s)

O R D E R

This appeal, by special leave is directed against the judgment, dated 4th February, 2002, rendered by the High Court of Judicature at Madras, in Tax Case No. 267 of 1989. By the impugned judgment, the High court has answered the question of law, referred to it by the Income Tax Appellate Tribunal, Madras Bench (for short, "the Tribunal") under Section 256(1) of the Income Tax Act, 1961, (for short, "the Act") at the instance of the Revenue. The question of law, so referred, was as follows :

> "...Whether on the facts and in the circumstances of the case, the Appellate Tribunal is right in allowing the deduction of Rs.55,84,754/- being the payment made by the assessee company directly to Life Insurance Corporation towards Group Gratuity Fund under Section 36 (1)(v) of the Incocme Tax Act, 1961?"

Material facts relevant for the purpose of the present appeal may be stated thus :

For the assessment year, 1983-84, for which the relevant previous year ended on 30th April, 1982, the

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assessee claimed a deduction of Rs. 92,06,978/- as contribution/provision towards the approved gratuity fund. As per the breakup of the said amount, an amount of Rs.5,84,754/- was paid as annual premium to the Life Insurance Corporation("LIC" for short); a sum of Rs. 50,00,000/- was paid to the LIC as initial contribution in the group Life Assurance Scheme framed by the LIC for the benefit of the employees of the assessee and the remaining amount of Rs. 36,22,224/- was shown as provision for initial contribution. It is common ground that assessee company's gratuity fund, viz., the Textool Company Ltd. Employees Group Gratuity Fund was approved by the Commissioner of Income Tax, coimbatore, w.e.f. 25th February, 1983. While completing assessment, the Assessing Officer allowed a deduction of Rs. 36,22,224/- under Section 40A(7) of the Act. However, deduction for the balance amount was disallowed on the ground that payment towards the gratuity fund was made by the assessee directly to the LIC and not to an approved gratuity fund and, therefore, it was not allowable under Section 36(1)(v) of the Act.

Being aggrieved, the assessee preferred appeal to the Commissioner of Income Tax (Appeals). The

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Commissioner observed that the initial payment of Rs.50,00,000/- and the annual premium of Rs. 5,57,943/- was made by the assessee directly to the LIC instead of as

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a contribution towards the approved gratuity fund; the LIC had accepted the said payment on behalf of the Group Life Assurance Scheme for the exclusive benefit of the employees of the assessee under the policy issued by it. Upon perusal of the original Master policy issued by the LIC, the Commissioner recorded his satisfaction that the initial contribution as well as annual premium had been credited by the LIC to the Group Life Assurance Scheme on behalf of the Textool Company Ltd. Employees Group Gratuity Fund only, meaning thereby that the insurance policy had been taken in the name of the approved gratuity fund only; this fund was shown as the payee in the policy; vide its letter dated 20th November, 1985, addressed to the I.A.C., the assessee had confirmed that in the subsequent assessment years, they had contributed funds to the Employees Group Gratuity Fund and the trustees in turn had made payment to the LIC in respect of the Textool Co. Ltd.; Employees Group Gratuity Assurance Scheme under the said policy and it was only the initial payment and first annual premium had been made directly

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to the LIC against the said policy. The Commissioner was thus, convinced that by making payment of the amounts in question directly to the LIC, the assessee had not violated any of the conditions stipulated in Section 36 (1) (v) of the Act. Accordingly, the Commissioner came to the conclusion that since, on the facts of the case, the

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objective of the fund was achieved, a narrow interpretation of the provision would be straining the language of Section 36(1)(v) of the Act so as to deny the deduction claimed by the assessee. Consequently, the Commissioner allowed the said amount of Rs. 58,84,754/- as deduction for the relevant assessment year.

Being dissatisfied with the view taken by the Commissioner, the Revenue took the matter in further appeal to the Tribunal. Relying on its earlier decision in the case of Janambikai Mills Ltd, the Tribunal dismissed the appeal.

As stated above, by the impugned order, the afore extracted question, referred at the instance of the revenue, has been answered by the High Court in favour of the assessee. While answering the question, the High Court has observed as follows :

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"In our opinion, the Commissioner of Income Tax (Appeals) as well as the Tribunal have correctly held that merely because the payments were made directly to the LIC, the company could not be denied the benefit under Section 36(1)(v) and the amount had to be credited in favour of the assessee. Both the Commissioner (appeals) as well as the Tribunal have correctly read the law and have correctly relied upon the aforementioned Supreme Court judgment. In our opinion, since the finding of fact is that all the payments made were only towards the Group Gratuity Fund, there would be no question of finding otherwise."

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Learned counsel appearing on behalf of the Revenue has submitted before us that the provisions of Section 36(1)(v) of the Act have to be construed strictly and for claiming deduction, conditions laid down in Section 36(1)(v) of the Act must be fulfilled. It is urged that since during the relevant previous year the contribution by the assessee towards the gratuity fund was not in an approved gratuity fund the High Court was not justified in affirming the view taken by the Commissioner as also by the Tribunal while answering the reference in favour of the assessee. However, on a query by us as to whether the contribution made by the assessee in the approved gratuity fund credited by the LIC for the employees of the assessee and ultimately the entire amount deposited with the LIC

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came back to the fund created by the assessee for the benefit of its employees and approved by the Commissioner w.e.f. 25th February, 1983, or not, learned counsel is not in a position to make a categorical statement in that behalf.

Having considered the matter in the light of the background facts, we are of the opinion that there is no merit in the appeal. True that a fiscal statute is to be construed strictly and nothing should be added or subtracted to the language employed in the Section, yet a

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strict construction of a provision does not rule out the application of the principles of reasonable construction to give effect to the purpose and intention of any particular provision of the Act. (See : Shri Sajjan Mills Ltd. vs. Commissioner of Income Tax, M.P. & Anr. (1985) 156 ITR 585). From a bare reading of Sectin 36(1)(v) of the Act, it is manifest that the real intention behind the provision is that the employer should not have any control over the funds of the irrevocable trust created

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exclusively for the benefit of the employees. In the instant case, it is evident from the findings recorded by the Commissioner and affirmed by the Tribunal that the assessee had absolutely no control over the fund created by the LIC for the benefit of the employees of the assessee and further all the contribution made by the assessee in the said fund ultimately came back to the Textool Employees Gratuity Fund, approved by the Commissioner with effect from the following previous year. Thus, the conditions stipulated in Section 36(1)(v) of the Act were satisfied. Having regard to the facts found by the Commissioner and affirmed by the Tribunal, no fault can be found with the opinion expressed by the High court, warranting our interference.

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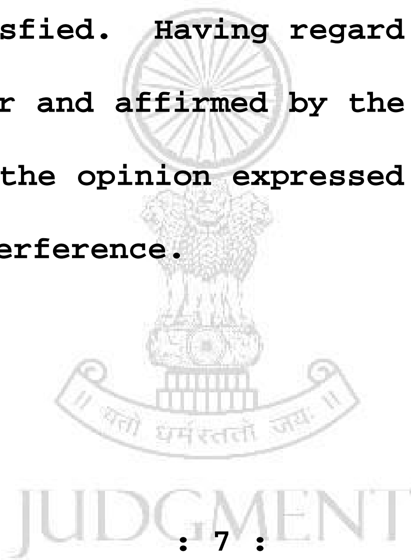

Resultantly, the appeal is dismissed with no order as to costs.

....................J.
[D.K. JAIN]

....................J.

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[R.M. LODHA]

NEW DELHI,
SEPTEMBER 09, 2009.