

Calcutta High Court deletes disallowance on account of Slump Sale of Chemical Undertaking

Fact of the Case

- The appellant revenue has challenged the order of the Tribunal by contending that the Tribunal ought not to have followed the decision in the assessee's own case for the assessment year 1994-95.
- Senior Counsel appearing for the respondent-assessee submitted that the order passed by the Tribunal in the assessee's own case for the assessment year 1994-95 has been upheld by the Hon'ble Division Bench of this Court in the case of Commissioner of Income Tax, Kolkata-IV Vs. AKZO Noble India Ltd.
- There is nothing on record to show whether the said decision has been reversed or modified. Therefore, the issue stands concluded in favor of the assessee.

Decision of the Case

- The division bench of Justice T.S. Sivagnanam and Justice Hiranmay Bhattacharyya noted that the concept of slump sale was discussed in CIT v. Mugneeram Bangur & Co.
- The written down value of the plant, machinery, and deadstock according to the assessee's books was Rs. 4,36,896/-. The undertaking was sold on a valuation of these items as Rs. 15,87,296/-. According to the department, the written down value was Rs. 3,32,276/-. The difference between them was the bone of contention in this case.
- Whether it would be taxed as capital gains or under the head "business". The Supreme Court ruled that if the value of the individual assets could not be determined, then the value of all the assets together should be taken. In that case, the profit or gain made would be taxed as a capital gain.
- In other cases, it would be taxed as business income. The entire matter was referred to the tribunal for a decision. In that decision the Income Tax Act, 1922 was under consideration.