

Cit Vs. Agra Construction Corpn.

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Court : Allahabad

Decided On : Sep-30-2004

Reported in : [2005]146TAXMAN31(All)

Appeal No. : IT Reference No. 12 of 1986 30 September 2004

Appellant : Cit

Respondent : Agra Construction Corpn.

Judgement :

1. The Income Tax Appellate Tribunal, New Delhi has referred the following questions of law under section 256(1) of the Income Tax Act, 1961,(hereinafter referred to as 'the Act'), for opinion to this Court.

'1. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that deduction under section 80I was to be allowed to the assessee by holding that the assessee was manufacturing or producing articles or things?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that investment allowance under section 32A was to be allowed on the machinery used in the business of the assessee?'

Heard Sri A.N. Mahajan, the learned standing counsel appearing for the revenue.

2. The present reference relates to assessment year 1982-83. The respondent-assessee is carrying on contract business for construction of tubular trusses, beams, girders and other structural, rolling shutters and other civil works. The activities undertaken by the respondent-assessee do not amount to manufacture of articles or things as held by the Apex Court in the case of CIT v. N.C. Budharaja & Co. : [1993]204ITR412(SC) wherein the Apex Court has held that construction activities are not exigible for investment allowance under section 32A of the Act or section 80I of the Act.

3. Respectfully following the view taken in the aforesaid case we answer the questions of law referred to us in the negative i.e., in favour of the revenue and against the assessee. However, there shall be no order as to costs.

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