**Cit Vs. Indore Plastics (P) Ltd.**

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**SooperKanoon Citation** : sooperkanoon.com/512681

**Court** : Madhya Pradesh

**Decided On :** Jul-18-2002

**Reported in** : [2002]124TAXMAN729(MP)

**Appeal No.** : MCC No. 566 of 1994 18 July 2002

**Appellant** : Cit

**Respondent** : indore Plastics (P) Ltd.

**Advocate for Pet/Ap.** : R.L. Jain, *for the Revenue* Sanjay Patwa, *for the Assessee*

**Judgement** :
ORDER

Heard Mr. R.L. Jain, the learned counsel for the applicant-department and Mr. Sanjay Patwa, the learned counsel for the respondent-assessee.

2. This is an application under section 256(2) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') as it stood before the amendment of 1999, praying for calling reference from the Tribunal, Indore Bench, for resolution of the question, as extracted in para 4 of the application, which is said to be a question of law.

3. The dispute is regarding the payments made to the assessee in instalments, by one Shri R.C. Khosla, in the relevant assessment year, amounting to Rs. 2,31,390.

Apparently, Shri Khosla was the promoter and managing director of the respondent-company. According to the assessing authority as also the Commissioner (Appeals), the said payment was in contravention of section 269SS of the Act and the assessee was, therefore, liable to pay penalty. The penalty so imposed was, however, vacated in second appeal by the Tribunal on the finding that the said payment was not by way of deposit or loan, but towards adjustment of the amount drawn by Shri Khosla, from the company's account. We find ourselves in full agreement with the Tribunal that the aforesaid finding is a finding of fact, and, therefore, does not give rise to any question of law to be answered by this court.

4. We, therefore, decline the prayer and dismiss the application.