

Cit Vs. Instrumentation Ltd.

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Court : Gujarat

Decided On : Oct-12-2001

Reported in : (2002)173CTR(Guj)441

Appeal No. : IT Ref. No. 6 of 1986 12th October 2001

Appellant : Cit

Respondent : instrumentation Ltd.

Advocate for Pet/Ap. : J.K. Singhi, *for the Revenue Anant Kasliwal, for the Assessee*

Judgement :

Rajesh Balia, J.

This application under section 256(2) of the Income Tax Act, 1961, has been made at the instance of the Commissioner for stating the case and referring the following question of law arising out of its appellate order dated 28-9-1984.

'Whether on the facts and in the circumstances of the case, the Tribunal was justified in directing the Income Tax Officer to follow the procedure adopted in 1974-75 and 1975-76 on the point of deduction of sales contingency provision and then determine the amount to be allowed ?'

The question relates to the transfer of amount to the sales contingency provision by the respondent-assessee and deduction thereof from the total computation of income. For the earlier assessment years 1974-75 and 1975-76, the Tribunal laid down certain procedure to be adopted and determined the amount to be deducted from the computation of taxable income of the assessee. Following the aforesaid decision for the earlier years, the Tribunal has made the same order for the assessment year 1978-79. The application under section 256(1) of the Act for making a reference to this court of the aforesaid question has been rejected on the ground that no question of law arises out of its order dated 28-9-1984 vide its order dated 22-4-1985.

2. We are informed by both the learned counsel that for earlier assessment orders in the like circumstances an application under section 256(2) of the Act was made before this court, which has since been decided in favour of the revenue and the Tribunal has been directed to refer the aforesaid question of law to this court for its opinion. That decision has been rendered by this court in CIT v. Instrumentation Ltd. (1987) 167 ITR 354 .

Accordingly, we allow this application and direct the Appellate Tribunal, Jaipur, to state the case and refer the question suggested by the Commissioner, Jaipur, to this court for its opinion.

There will be no order as to costs.

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