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Cit Vs. Mewar Oils

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Court : Rajasthan

Decided On : Feb-21-2002

Reported in : (2002)177CTR(Raj)303

Appeal No. : IT Ref. No. 18 of 1997 21 February 2002

Appellant : Cit

Respondent : Mewar Oils

Advocate for Pet/Ap. : Sandeep Bhandawat, *for the Revenue* N.M. Ranka with Sanjeev Johari, *for the Assessee*

Judgement :

N.N. Mathur, J.

Heard Mr. Sandeep Bhandawat, learned counsel for the revenue, and Mr. N.M. Rank, senior advocate.

2. This reference application under section 256(2) of the Income Tax Act is filed by the revenue, seeking reference from the order of the Tribunal dated 21-6-1995, for the opinion of this court.

'Whether, on the facts and in the circumstances of the case the Tribunal is justified deleting the entire disallowance of Rs. 8 lakhs in building repairs account by following their earlier order in the case of assessee itself for assessment year

1984-85, which has not been accepted by the department and the Tribunal have proposed reference under section 256(1) vide R.A. No. 251/Jp/1991, dated 19-5-1993 ?'

3. The respondent-assessee is a limited company indulged in the manufacture and sale of insecticides and pesticides, the assessee-company claimed expenditure on building repairs at Rs. 14,18,083. The assessing officer disallowed Rs. 8,00,000 out of the claim. Thus, the Commissioner (Appeals) sustained disallowance to Rs. 6 lakh and granted relief of Rs. 2,00,000 on the basis of the order for assessment year 1984-85. Against this order department as well as the assessee preferred an appeal to the Tribunal. The Tribunal after perusing the details placed on record running in more than 50 pages found substance in the submission of the assessee that the factory was spread over in a large area and it requires substantial repairs from year to year, as such, it was entitled to disallowance (sic-deduction) of Rs. 8,00,000. The conclusion arrived at is based on appreciation of material on record. The finding being purely of fact does not give rise to question of law. Thus, in our opinion no referable question of law arises. The reference application is rejected.

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