



HIGH COURT OF DELHI

ITR No. 251 of 1981

Date of Decision : January 8, 2001

The Commissioner of Income Tax, Delhi-V, New Delhi.....Petitioner
through : Shri Sanniv Khanna
 with Shri Ajay Jha,
 Advocates.

- versus -

M/s. United Engineering Industries, New Delhi.....Respondent
through : Nemo.

Coram

THE HON'BLE Mr. JUSTICE ARIJIT PASAYAT, CHIEF JUSTICE.
THE HON'BLE Mr. JUSTICE D.K. JAIN.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?

ARIJIT PASAYAT, C.J. (Oral)

At the instance of revenue, following question has been referred for opinion of this Court by the Income-tax Appellate Tribunal, Delhi Bench 'E', Delhi (in short, the 'Tribunal') under Section 256(1) of the Income Tax Act, 1961 (in short, the 'Act') :-

"Whether, on the facts and circumstances of the case, the Tribunal was justified in law in holding that the following expense items qualified for weighted deduction even though they had been incurred in India and not outside India :

- | | | |
|------|----------------------|-------------|
| (i) | 50% of the telephone | Rs. 1,619/- |
| (ii) | 50% of rent | Rs. 3,276/- |



2. We have heard learned counsel for the revenue. There is no appearance on behalf of the assessee in spite of notice.

3. For accepting assessee's claim for weighted deduction in terms of Section 35B of the Act, the Tribunal relied on a Special Bench decision in J. Hem Chand & Co. ITA No. 3255 of 1976-77. Correctness of the said decision was tested by the Apex Court in the cases of *Commissioner of Income Tax v. Stepwell Industries Limited & Others (1997) 228 ITR 171* and *Commissioner of Income Tax v. Hero Cycles Pvt. Ltd. & Others (1997) 228 ITR 463*. The view taken in the aforesaid Special Bench decision of the Tribunal was held to be not in order. That being the position, we answer the question referred in negative, in favour of the revenue and against the assessee.

4. This reference is accordingly disposed of.



CHIEF JUSTICE



D.K. JAIN, J.

January 8, 2001
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