



IN THE HIGH COURT OF DELHI

ITR No.183/83

Date of Decision: 27th July, 2001

Jain Tube Company LimitedPetitioner
through: Nemo

Versus

Commissioner of Income-tax-IRespondent
through Mr.R.C.Pandey with.
Mr.Ajay Jha,Advocates

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)

On being moved for reference, Income-tax Appellate Tribunal Delhi Bench-C ('Tribunal' in short) has referred, at the instance of assessee, the following questions under Section 256(1) of the Income-tax Act, 1961 (in short 'the Act') for opinion of this Court:

"1. Whether on the facts and in the circumstances of the case, the difference in exchange amounting to Rs.2,75,533/- resulted in capital expenditure under section 43-A of the Income-tax Act, 1961 and/or is not an allowable revenue expenditure under section 28 read with section 37 of the Act ?"

....contd/-



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"2. Whether on the facts and in the circumstances of the case, the receipt in respect of the sale of import entitlements amounting to Rs.7,38,634/- constitutes the business income of the assessee assessable under the Income-tax Act, 1961 ?"

The factual aspects need not be gone into as the issue involved in the first question stands settled by a decision of the Apex Court in Sutlej Cotton Mills Limited v. Commissioner of Income-tax, West Bengal (1979) 116 ITR 1. Following the view expressed in the said decision, we answer the question in the affirmative, in favour of Revenue and against ^{the} assessee. So far as the second question is concerned, though Tribunal referred to various decisions, it is not necessary to go into that in view of the provision contained in Section 28(iii)(a) of the Act, which was made operative with effect from 1st April, 1962. The question is answered in the affirmative, in favour of Revenue and against assessee.

The reference stands disposed of.



CHIEF JUSTICE



D.K. JAIN, J.

27th July, 2001

"v"