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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITR 224/1992**

THE COMMISSIONER OF INCOME TAX Petitioner
Through **Ms.Rashmi Chopra, Advocate**
versus

M/S RATHI GASES LTD. Respondent
Through **None**

CORAM:
HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
28.07.2006

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The paper book filed by the Revenue, pursuant to the liberty granted on 24th March, 2006 is not in accordance with the High Court Rules.

However, we have gone through the question of law that has been referred to us under Section 256 (1) of the Income Tax Act. The question reads as follows:-

"Whether on the facts and in the circumstances of the case, the Appellate Tribunal erred in law in holding that the amount of cash subsidy received by the assessee under the 10% Central Outright Grant Scheme, 1971 for backward districts/areas (through Rajasthan Financial Corporation) should not be reduced from the total cost of the assets and that depreciation was allowable on the total cost of the assets?"



We find that an almost identical question of law was considered in *Commissioner of Income Tax vs. P.J. Chemicals Ltd. [1994] 210 ITR 830.*

The Supreme Court answered the question in favour of the assessee and against the Revenue. Following the decision of the Supreme Court we answer this reference in favour of the assessee and against the Revenue.


MADAN B. LOKUR, J


VIPIN SANGHI, J

JULY 28, 2006
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