(2002) 01 RAJ CK 0182

In the Rajasthan High Court

Case No : IT Reference Application No. 88 of 1994

Commissioner of Income Tax — APPELLANT

Vs

Alwar Processors (P.) Ltd. — RESPONDENT

Date of Decision : 08-01-2002

Acts Referred:
Income Tax Act, 1961 — Section 256(2), 43(1)

Citation : (2002) 123 TAXMAN 479

Hon'ble Judges : Y.R. Meena, J;A.C. Goyal, J

Bench : Division Bench

Advocate : R.B. Mathur, for the Appellant;

Judgement

1. On an application filed u/s 256(2) of the income tax Act, 1961 (''the Act'') , the assessee prays that the Tribunal be directed to refer the following question, as set-out in para 6 of the reference application for the opinion of this Court :

Whether, on the facts and in the circumstances of the case and in law, the Tribunal was justified in upholding the decision of the Commissioner (Appeals) , who has directed the Assessing Officer to allow depreciation by taking into consideration the written down value or the cost of the assets as the case may be and without making any deduction on account of the amount of subsidy therefrom ?

The admitted facts are that the subsidy has been given as incentive for the establishment of the factory in backward area. Their Lordships of the Apex Court in the case of CIT v. P.J. Chemicals Ltd. [1994] 210 ITR 830 1 have taken the view that if the subsidy is given by the Government as incentive for setting-up of industry in the backward area, that amount of subsidy cannot be deducted in computing the actual cost of assets u/s 43(1) of the Act.

2. Considering the view of their Lordships in the case of P.J. Chemicals Ltd. (supra) , no case is made out for notice. The application filed u/s 256(2) is rejected.

