**(1988) 09 CAL CK 0013**

**In the Calcutta High Court**

**Case No :** Income-tax Reference No. 228 of 1979

Commissioner of Income Tax APPELLANT

Vs

Bally Jute Co. Ltd. RESPONDENT

**Date of Decision :** 19-09-1988

**Acts Referred:**
Income Tax Act, 1961 — Section 37

**Citation :** (1990) 182 ITR 428

**Hon'ble Judges :** K.M. Yusuf, J;Ajit K. Sengupta, J

**Bench :** Division Bench

**Advocate :** S. Mukherjee, for the Appellant; A.K. Dey, for the Respondent

## Judgement

Ajit K. Sengupta, J.—At the instance of the Commissioner of Income Tax, Central-1, Calcutta, the following question of ,law for the assessment year 1972-73 has been referred to this court u/s 256(1) of the Income Tax Act, 1961 :

"Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the provision for gratuity liability of the employees based on the service for the earlier years under the West Bengal Employees'' Payment of Compulsory Gratuity Act, 1971, which came into force with effect from June 14, 1971, was an allowable deduction in working out assessee''s business income for the assessment year 1972-73 ?"

2. This question is concluded by the decision of this court in the case of Commissioner of Income Tax (Central-I) Vs. Eastern Spinning Mills Ltd., . Following the said decision, we answer the question referred in this reference in the affirmative and in favour of the assessee.

3. It may be mentioned that the statement of the case was submitted in May, 1979, but till now the Commissioner of Income Tax, West Bengal, has not filed the paper book.

4. Having regard to the fact that the question is concluded by the decision of this

court and we have not been told whether any appeal has been preferred against the said judgment of this court, the filing of the paper book in this case is dispensed with. However, a copy of the order shall be sent to the assessee within a fortnight from date.

K.M. Yusuf, J.

5. I agree.