(1996) 03 KAR CK 0016

In the Karnataka High Court

Case No : Income Tax R.C. No''s. 8 and 9 of 1994

Commissioner of Income Tax APPELLANT

Vs

Hindustan Machine Tools Ltd. RESPONDENT

Date of Decision : 26-03-1996

Acts Referred:
Income Tax Act, 1961 — Section 80 HH, 80 J

Citation : (1998) 229 ITR 191

Hon'ble Judges : S. Rajendra Babu, J;R.V. Raveendran, J

Bench : Division Bench

Advocate : M.V. Seshachala, for the Appellant; Kumar, for the Respondent

Judgement

S. Rajendra Babu, J.—Substantial questions of law have been referred for opinion as under :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in upholding the order of the Commissioner of Income Tax (Appeals) who directed the Income Tax Officer to include the value of work-in-progress, machinery and equipment in transit and under erection in the computation of capital for the purpose of relief u/s 80J ?

2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in upholding the order of the Commissioner of Income Tax (Appeals) who held that for the purpose of computing relief u/s 80J profits and gains after (it should be before) allowing current depreciation should be the basis ?

3. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is right in law in upholding the order of the Commissioner of Income Tax (Appeals) who directed the Income Tax Officer to allow exemption u/s 80HH on commercial profits after allowing current depreciation ?"

2. The questions raised in this reference are covered by the decision of this court

in Commissioner of Income Tax Vs. H.M.T. Ltd., .

3. Following the said decision and for the reasons stated therein, the questions raised herein are answered in the affirmative and against the Revenue.