

**(1987) 08 DEL CK 0016**

**In the Delhi High Court**

**Case No : Income Tax C. No. 77 of 1985**

Commissioner of Income Tax

APPELLANT

Vs

Jay Engineering Works

RESPONDENT

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**Date of Decision : 04-08-1987**

**Acts Referred:**

**Citation : (1987) 66 CTR 179 : (1988) 36 TAXMAN 204**

**Hon'ble Judges : S. Ranganathan, J;P.K. Bahri, J**

**Bench : Division Bench**

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## **Judgement**

1. Reference of two questions is sought in this application.
2. So far as the first question is concerned, the Tribunal referred to its previous order for the assessment year 1973-74. That question came up for consideration in ITC No. 52 of 1980 and, vide order dated May 19, 1982, the Division Bench of this court rejected the application for reference.
3. Counsel for the petitioner strongly urges that no details regarding the nature of the discretionary expenses have been furnished and that, Therefore, the Tribunal's findings could not be based on material. As the Tribunal has pointed out in the earlier order and also in the order on the application u/s 256 for this year, this question had to be considered in the context of the magnitude of the turnover involved and the very small amount of expenditure incurred on the item in dispute. The assessed has a turnover of crores of rupees and returned an income of twenty-seven lakhs of rupees. It claimed that it has given certain discretion to high-placed officers of the company to incur expenditure for the purposes of the business of the company. The details of the officers who had incurred this expenditure were apparently available though perhaps the exact details of each item of expenditure was not available. It is, of course, true that the assessed should not be permitted to claim deduction of expenditure of large sums of money which had not been accounted for. But, having regard to the turnover of the company and nature of the expenditure involved, the Tribunal has accepted the case of the assessed that the expenditure had been wholly and

exclusively laid out for the purposes of the business of the company. In these circumstances, following the decision in ITC No. 52 of 1980, we decline to direct reference of this question.

4. The second question relates to the deduction of Rs. 66,815 which the assessed claims to be the expenditure on repairs to rented building. Here also the question assumes that no details have been furnished before the Income Tax Officer or the appellate authorities. This proceeds on a misapprehension because though it does appear that the Income Tax Officer commented that no details were furnished to him, the Inspecting Assistant Commissioner directed that the entire amount should be treated as capital expenditure and the Department made no grievance of this decision of the Commissioner of Income Tax (Appeals). Thus, the incurring of this expenditure was not in doubt when the matter came up before the Tribunal and the only question was whether it was revenue or capital. The Tribunal referred to the fact that similar claims had been considered in earlier orders and subsequent orders and had been allowed in full. In fact, amounts much larger than the one claimed this year had also been allowed in those years. Following this decision, the Tribunal allowed the assessed's claim for the year under appeal as well. Having regard to the fact that the question before the Tribunal was a limited one and having regard to the fact that the expenditure had been incurred on repairs to rented premises, the Tribunal's conclusion that the expenditure was revenue expenditure is palpably correct. In fact, in the order u/s 256(1), the Tribunal has pointed out that it is not strictly correct to say that details were not available. It is pointed out that the details were available in the books and that they had been culled out and placed in the form of a statement before the Tribunal. We need not, however, enter into this question because as has already been pointed out, the point in controversy before the Tribunal was a very limited one. No question of law arises out of this finding of the Tribunal. We, Therefore, decline a reference of this question as well. The application, Therefore, fails and is dismissed. No costs.