**(1999) 09 RAJ CK 0012**

**In the Rajasthan High Court**

**Case No :** IT A1ppeal No. 33 of 1999 29th Selptember, 1999

COMMISSIONER OF INCOME TAX — APPELLANT

Vs

MANGLAM CEMENT LTD. — RESPONDENT

**Date of Decision :** 29-09-1999

**Acts Referred:**

**Citation :** (2000) 158 CTR 549

**Hon'ble Judges :** P.X. Tewari, J;P.K. Tewari, J;Mrs. Gyan Sudha Misra, J;Gyan Sudha Misra, J

**Bench :** Full Bench

## Judgement

BY THE COURT:

The appellant CIT, Jaipur has preferred this appeal against the order of the Tribunal, dt. 23rd March, 1999, wherein the learned Members of the Tribunal have been pleased to allow the appeal of the assessee holding therein that the amount of Rs. 6,83,518 could not have been treated as capital expenditure, but was tit to be treated as revenue expenditure being cost of the gear box which did not result in any enduring benefit to the assessee. It was held therein that certain additions which were made in the existing machinery had been done only for the purpose of improvement in the operation of the existing machinery and, therefore, the expenditure incurred by the assessee was allowable as revenue expenditure. The learned Members of the Tribunal while allowing the plea of the assessee relied upon a decision delivered in the case of Commissioner of Income Tax Vs. N.P. Singh and Others wherein the Patria High Court relying upon a Supreme Court decision Alembic Chemical Works Co. Ltd. v. CIT : [1989]177ITR377(SC) has taken this view in a similar circumstance. In the said case the assessee had purchased two new gear boxes for its steamer and claimed the expenditure as revenue expenditure on the plea that it was for the purpose of increasing efficiency of the existing steamer and hence, the expenditure was treated as capital expenditure by the Assistant Commissioner against which the appeal of assessee was allowed by the Commissioner

(Appeals) holding therein that it did not accrue in an enduring benefit of the assessee which could be treated as capital expenditure. This view was upheld before the Supreme Court and the Tribunal in the case at hand applied the ratio of the said case in a similar situation.

2. Learned counsel for the appellant Mr. Ashok Gaur although attempted to assail the impugned order of the Tribunal passed in favour of the assessee ultimately could not assign any convincing reason against the view taken by the Tribunal replying upon the decision of the Patria High Court.

3. Having perused the judgment and order of the Tribunal in the light of the Patria High Court and the Supreme Court, we find no infirmity in the impugned order of the Tribunal, which has relied upon this decision holding therein that the expenditure incurred on the component i.e. purchase of gear boxes, could not be treated as capital expenditure as it was for the purpose of improvement of the existing machinery which had to be treated as revenue expenditure.

We, therefore, do not find any merit in this appeal and it accordingly stands dismissed.

 