(1989) 07 AHC CK 0017

In the Allahabad High Court

Case No : Income-tax Application No. 326 of 1988

Commissioner of Income Tax APPELLANT

Vs

Modi Industries Ltd. RESPONDENT

Date of Decision : 05-07-1989

Acts Referred:
Income Tax Act, 1961 — Section 256(2), 40, 40(A), 80(J)

Citation : (1989) 180 ITR 249

Hon'ble Judges : K.C. Agrawal, Acting C.J.;R.K. Gulati, J

Bench : Division Bench

Advocate : Bharatji Agrawal, for the Appellant; R.K. Agrawal, for the Respondent

Judgement

1. We have heard Sri Bharatji Agrawal, learned senior standing counsel for the Revenue, and also Sri R. K. Agrawal, counsel appearing for the assessee. After having considered the judgments supplied to us by learned counsel for the assessee and hearing both the sides, we are of the opinion that the following are statable questions of law :

"(1) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in deleting the addition of Rs. 5,000 made by the Income Tax Officer being personal expenses as premium paid by the asses-see-company for accident insurance of the directors and of Rs. 9,000 being provision for conveyance for directors u/s 40(c) read with Section 40A(5) of the Income Tax Act ?

(2) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in directing allowance of the assessee-company''s claim in respect of the 10 Ton Furnace Division u/s 80J when the furnace was merely an extension of the existing steel ''A'' Unit and not a separate independent unit by itself ?

(3) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that development rebate at higher rate of 35% was admissible in relation to the steel unit of the assessee-company or not only the

cost of machinery installed in the furnace section, but also on the mill and wire drawing section within the meaning of Section 33(1)(b) and items Nos. I and II of the Fifth Schedule of Income Tax Act, 1961 ?

(4) Whether, on the facts and in the circumstances of the case, the Tribunal was justified in law in deleting the addition of Rs. 1,84,726 made by the Income Tax Officer on account of excess price realised on the sale of sugar ?

(5) Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal, was justified in allowing the deduction of Rs. 1,85,396 on account of development rebate on new electric fittings in the factory area ?"

2. Consequently, we call upon the Income Tax Appellate Tribunal to send a statement of the case with regard to the above questions for the opinion of the High Court.