(2007) 02 DEL CK 0232

In the Delhi High Court

Commissioner of Income Tax APPELLANT

Vs

Modi Industries Ltd. RESPONDENT

Date of Decision : 14-02-2007

Acts Referred:

Citation : (2008) 173 TAXMAN 137

Hon'ble Judges : Vidya Bhushan Gupta, J;Madan B. Lokur, J

Bench : Division Bench

Final Decision : Disposed Off

Judgement

1. In this reference u/s 256(1) of the Income Tax Act, 1961, the following three questions of law have been referred for our opinion u/s 256(1) of the Income Tax Act, 1961:

1, Whether on facts and in the circumstances of the case, the Appellate Tribunal was justified in law in upholding the allowance of development rebate on items of Plant and Machinery costing less than Rs. 750?

2. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in upholding the allowance of development rebate on road rollers?

3. Whether on the facts and in the circumstances of the case, the Appellate Tribunal was justified in holding that the income from Modi Bhawan accepted by the nominees of R.B. Multanimal & Sons should be assessed under the head ''Business'' and not under the head ''Income from house property''?

2. It is common ground that the first question is required to be answered in the affirmative and in favour of the assessee in view of the decision of this court in CIT v. Modi Industries Ltd. (2001) 250 ITR 351 (Delhi).

3. Insofar as the second question is concerned, we find that the development rebate is hardly Rs. 5,000 on which the tax would be about Rs. 3,000 or so. We do not think it is worth considering this question in view of the amount involved

and we decline to answer this question.

4. Insofar as the third question is concerned, we answer this question in affirmative and in favour of the assessee in view of CIT v. Modi Industries Ltd. (1994) 210 ITR 12 (Delhi) (FB).

5. The reference is disposed of accordingly.

