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(2004) 12 AHC CK 0250

In the Allahabad High Court

Case No : IT Reference No. 62 of 1990

Commissioner of Income Tax — APPELLANT

Vs

Raj Kumar Singh and Co. — RESPONDENT

Date of Decision : 23-12-2004

Acts Referred:
Income Tax Act, 1961 — Section 256, 80HH, 80J

Citation : (2004) 12 AHC CK 0250

Hon'ble Judges : Vikram Nath, J;R.K. Agrawal, J

Bench : Division Bench

Judgement

1. The Income Tax Appellate Tribunal, Allahabad, has referred the following question of law u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as ''the Act'') for opinion to this Court:

Whether on the facts and in the circumstances of the case the Tribunal was in law, justified in holding that the assessee is entitled to deduction under sections 80J and 80HH of the Income Tax Act, 1961?

2. The reference relates to the assessment year 1982-83. The respondent is engaged in the business of construction activities.

3. We have heard Sri Shambhoo Chopra, the learned standing counsel for the revenue.

4. In view of the decision of the Apex Court in the case of Commissioner of Income Tax, Orissa and Others Vs. N.C. Budharaja and Company and Others, any activity of construction does not amount to manufacture nor any article is produced in it, therefore it is not an industrial undertaking consequently the deduction under sections 80J and 80HH of the Act was not admissible.

5. Respectfully following the aforesaid decision, we answer the question referred to us in the negative, i.e., in favour of the revenue and against the assessee. However, there shall be no order as to costs.

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