**(1990) 04 AHC CK 0017**

**In the Allahabad High Court**

**Case No :** Income-tax Application No. 192 of 1989

Commissioner of Income Tax — APPELLANT

Vs

S.B. Foundry — RESPONDENT

**Date of Decision :** 09-04-1990

**Acts Referred:**
Income Tax Act, 1961 — Section 256

**Citation :** (1990) 185 ITR 555

**Hon'ble Judges :** R.K. Gulati, J;A.P. Mishra, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. Having heard learned counsel for the Revenue, we are not satisfied that any statable question of law arises in this case. In the assessment year 1984-85 which is in dispute, the Income Tax Officer added a sum of Rs. 10,003 with the following remarks :

"Balance-sheet tallies at Rs. 10,42,319. Liabilities of Rs. 8,312 and Rs. 1,961 are shown as U. P. sales tax and Central sales tax, the same shall be added u/s 43B."

2. The assessee appealed to the Appellate Assistant Commissioner who deleted the addition. The order passed by the appellate authority was confirmed by the Income Tax Appellate Tribunal. As the reference u/s 256 was refused, the present application has been filed.

3. The appellate authority has found that the amount in dispute represented the sales tax realisation of the last month of the previous year relevant to the assessment year in dispute. Under the provisions of the sales tax law, the amount was payable in the next month and the same was actually paid in the month of November, 1983. The addition is on the finding that the assessee had not claimed the disputed amount as deduction nor has it charged that amount to the profit and loss account. On this factual position, the Tribunal held that there was no question of disallowing the amount taken to the balance-sheet on the

liabilities side and, in these circumstances, the question of any "add back" from the profit and loss account did not arise. The Tribunal, therefore, refused to interfere with the order of the Appellate Assistant Commissioner. No error in the approach taken by the Tribunal was pointed out to us. Accordingly, the application u/s 256(2) is rejected.

 