(1991) 04 AHC CK 0064

In the Allahabad High Court

Case No : Income-tax Reference No. 257 of 1979

Commissioner of Income Tax APPELLANT

Vs

Syntex Fabrics Ltd. RESPONDENT

Date of Decision : 19-04-1991

Acts Referred:
Income Tax Act, 1961 — Section 32, 80J

Citation : (1992) 196 ITR 29

Hon'ble Judges : R.K. Gulati, J;K.P. Singh, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

R.K. Gulati, J.—In compliance with the directions of this court, the Income Tax Appellate Tribunal has referred the following two questions of law u/s 256(2) of the Income Tax Act, 1961, for the opinion of this court :

"1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee-company was entitled to relief u/s 80J of the Income Tax Act, 1961 ?

2. Whether the Tribunal was justified in holding that the assessee-company was engaged in the business of manufacturing artificial silk and was, therefore, entitled to depreciation at the rate of 15% as against 10% ?"

2. We do not consider it necessary to set out the facts which have a bearing on these questions, inasmuch as learned counsel for both the sides agree that a similar controversy as is involved in the questions now referred to us had come up for consideration before this court between the same parties in Additional Commissioner of Income Tax Vs. Syntex Fabrics Ltd., . That case related to the assessment years 1971-72 and 1972-73, while we are concerned here with the assessment year 1973-74. The controversies referred in these questions were considered under questions Nos. 4 and 5 in the case decided earlier. On both these questions, the answer was returned in favour of the assessee and against

the Department.

3. Following the decision in the aforesaid case with which we agree, we answer both the questions referred to us in the affirmative, in favour of the assessee and against the department. There shall be no order as to costs.

