(1990) 01 DEL CK 0021

In the Delhi High Court

Case No : Income Tax C. No. 11 of 1989

Commissioner of Income Tax APPELLANT

Vs

Triveni Engineering Works Ltd. RESPONDENT

Date of Decision : 17-01-1990

Acts Referred:

Citation : (1990) 183 ITR 437

Hon'ble Judges : C.L. Choudhary, J;B.N. Kirpal, J

Bench : Division Bench

Advocate : D.K. Jain, for the Appellant; S.K. Aggarwal, for the Respondent

Judgement

Kirpal, J.—The petitioner has sought reference of the following three questions of law to this court:

"1. Whether the Tribunal was correct in law and on facts in rejecting the Revenue''s appeal against the order of the Commissioner of Income Tax (Appeals) deleting the disallowance of interest of Rs. 13,290 paid to the Karnataka Industrial Development Board?"

2. Whether the Tribunal was correct in law and on facts in holding that the in holding that the interest of Rs. 30,96,241 paid on borrowed capital for modernisation and expansion of Khatauli Unit could not be treated as capital expenditure and thereby rejecting the Revenue''s appeal against deletion of the disallowance of the same amount by the Commissioner of Income Tax (Appeals)?

3. Whether the Tribunal was correct in law and on facts in confirming the view of the Commissioner of Income Tax (Appeals) that the molasses reserve fund did not constitute the income of the assessed and that the assessed was entitled to get a deduction of Rs. 2,00,581?"

2. In respect of the first two questions, reference is not to be called for because in respect of the earlier year, namely, assessment year 1979-80, this court has dismissed a similar application being ITC No. 29 of 1986 on September 7, 1987.

As far question No. 3 is concerned, in ITC No. 9 of 1988, this court had directed a similar question to be referred. We, Therefore, direct the Tribunal to state the case and refer the following question of law to this court:

"Whether the Tribunal was correct in law and on fact in confirming the view of the Commissioner of Income Tax (Appeals) that the molasses reserve fund did not constitute the income of the assessed and that the assessed was entitled to get a deduction of Rs. 2,00,581?"

3. The Petition is disposed of accordingly. There will be no order as to costs.

