

SUREME COURT OF INDIA

Commissioner of Income Tax, Bombay

Vs.

Tiecicon Pvt. Ltd.

(R Pathak and M Kania JJ.)

03.09.1987

ORDER

R.S. PATHAK, J.

1. The Income tax Appellate Tribunal held in appeals filed by the respondent -assessee relating to the assessment for the assessment years 1968-69, 1969-70, 1970-71 that in as much as the respondent supplied cool, filtered and chilled air through air conditioning apparatus to the lessees in the building under consideration, it was an "Industrial Company" within the meaning of Section 2(6)(d) of the Finance Act, 1968 and Section 2(6)(c) of the Finance Acts, 1969 and 1970, as it could be said to have engaged in the manufacture or processing of goods and therefore, the rate of tax applicable to the respondent was 55% and not at the rate of 65%. The application made by the Commissioner of Tax for reference of the question whether the respondent was an "industrial Company" in terms of the definitions referred to earlier was rejected by the Income tax Appellate Tribunal on the ground that the question was one of the fact and not law. A reference application made by the Commissioner of Income Tax to the High Court was rejected on the same ground. In these appeals against the order of the High Court declining to call for a statement of the, case and rejecting the reference applications, we have heard learned Counsel for the parties and we are satisfied that the Income Tax Appellate Tribunal and the High Court was right in holding that the question is one of fact. Accordingly, we dismiss the appeal but without any order as to costs.