

CIT, Cochin

Vs

Bhageeratha Engg. Ltd.

SLP (Civil) Nos. 5074-75 of 1992

(M. N. Venkatachaliah, P. B. Sawant JJ)

20.04.1992

ORDER

1. Heard learned counsel on both sides. The question of law formulated by the opinion of the High Court under a reference under Section 256 of the Income Tax Act, 1961, pertains to the entitlement of the assessee to the investment allowance under Section 32-A of the Act. The High Court held :

"The Tribunal further found that since the machinery was used in an industrial undertaking in the business of construction, manufacture or production of articles or things, the assessee is entitled to investment allowance under Section 32-A of the Act. The finding that the assessee is engaged mainly in the manufacture or processing of goods and is an industrial undertaking is not in challenge before us. Admittedly, the assessee is a construction company and for the purpose of manufacturing activities performed by it, it used the machinery in its business of construction.

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It is not open to the Revenue to contend in this reference that the assessee company is not an industrial undertaking, since the finding of fact in that regard, entered by the Tribunal, has not been expressly challenged by an appropriate question raised in the reference."

2. The contention of the assessee (sic) in relation to the construction activity carried on by him cannot be said to be an industrial undertaking, becomes irrelevant.

3. With this finding, the special leave petition is dismissed.

Court Master

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