

Commissioner of Income Tax, Bombay

Vs

Allied Chemicals Corporation

Civil Appeal No. 642 of 1979

Civil Appeal No. 3450 of 1996

(B. N. Kirpal, S. P. Bharucha JJ)

06.02.1996

ORDER

1. This is an appeal by special leave against the order of the High Court at Bombay rejecting an income tax application filed by the Revenue.
2. The Revenue, by the income tax application, asked the High Court to direct the Income Tax Appellate Tribunal to refer to it, under Section 256(2) of the Income Tax Act, 1961, the following question :

"Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the amount of Rs 34,575 representing a loss that arose to the assessee at the time of remittance of money to it was an allowable deduction under Section 57(1) of the IT Act ?"

The High Court declined to do so, saying only, "Rejected".

3. Plainly, the question sought to be referred is a question of law concerning the interpretation of Section 57(1) of the Income Tax Act and the High Court ought to have called for a reference from the Tribunal concerning it.
4. The appeal is allowed. The Tribunal is directed to refer the aforequoted question to the High Court under Section 256(2) of the Act. There shall be no order as to costs.