

**SUPREME COURT OF INDIA**

Commissioner of Income-Tax

Vs.

Concord Industries Ltd.

(S Agrawal and G Nanavati JJ.)

28.01.1997

**ORDER**

1. This appeal, by certificate granted by the Madras High Court under section 261 of the Income-tax Act, 1961, arises out of a reference made by the Income-tax Appellate Tribunal in which the following question was answered by the High Court in favour of the assessee and against the Revenue (see [1979] 119 ITR 458,

459) :

"Whether, on the facts and in the circumstances of the case, it has been rightly held by the Appellate Tribunal that the provisions of section 79 would not apply to unabsorbed depreciation and development rebate ?"

2. We have heard Shri Ranbir Chandra, learned counsel appearing for the Revenue, in support of the appeal.

One of the conditions for the applicability of Section 79 is that there should be a change in the shareholding of the company. Shri Ranbir Chandra has not been able to show that a finding has been

recorded by any authority regarding the change of shareholding of the company for the applicability of Section 79. We, therefore, do not find any merit in the appeal and it is accordingly dismissed. No order as to costs.