

SUPREME COURT OF INDIA

Commissioner of Income Tax

Vs.

Khemchand Motilal Jain

(S Bharucha and V Khare JJ.)

12.05.1998

ORDER

1. Leave granted.

2. The High Court declined to ask the Income-tax Appellate Tribunal to refer to it for adjudication the following question :

Whether, on the facts and in the circumstances of the cases, the Tribunal was right in holding that the sums of Rs. 22,91,728 and Rs. 22,66,746 paid by the company to the co-owners of the trade mark and partners of the erstwhile firm in lieu of trade mark and goodwill which is being used by the company for its business was a revenue expenditure ?

3. It did so because it found that the consistent view of the High Court had been followed by the Tribunal.

4. We think that a question of law does arise and that the High Court should have called for a

reference. We make it clear that we express no opinion on the answer to be given.

5. The appeal is allowed. The order under challenge is set aside. The Tribunal shall refer to the High Court the question aforestated for its decision.

6. No order as to costs.