

SUPREME COURT OF INDIA

Commissioner of Income-Tax

Vs.

Bhooratnam and Co.

(B Kirpal and S R Babu JJ.)

11.05.1999

ORDER

1. Special leave granted.
2. After hearing" counsel for the appellant, we direct the Tribunal to state the case and refer the following two questions of law to the High Court :
 1. Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal was correct in law in allowing investment allowance under Section 32A of the Income-tax Act, 1961, on the excavator, which was used for excavation of earth at site ?
 2. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal is correct in holding that the Assessing Officer cannot verify which machinery was used for contract work in proceedings under Section 154 of the Income-tax Act ?
3. Accordingly, the appeal is allowed, the order of the High Court is set aside and the application under Section 256(2) of the Income-tax Act is allowed.