

SUPREME COURT OF INDIA

Commissioner of Income-Tax

Vs.

Chika Ltd.

(B Kirpal and D Mohapatra JJ.)

14.05.1999

JUDGMENT

1. Delay condoned.
2. Special leave granted.
3. On an application filed by the appellant, the Tribunal had referred the following question of law to the High Court :

Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in holding that the assessee-company was entitled to export markets development allowance under Section 35B(1)(b) in respect of expenditure incurred for foreign indenting business even though the services in this connection were rendered in India ?

4. The High Court following its earlier decision in CIT v. Prakash Cotton Mills Pvt. Ltd, (Bom), answered the question of law in favour of the respondent.

5. Dr. Gauri Shankar, learned senior counsel for the Revenue, brings to our attention that the issue now stands concluded with the judgment of this court in CIT v. Stepwell Industries Ltd. . It was held in the said decision that weighted deduction under Section 35B could not be allowed on commission paid to a party in India with regard to the sales made outside India. The principle enunciated in the abovesaid decision is clearly applicable in the present case.

6. Therefore, the appeal is allowed and the question of law is answered in favour of the Revenue.

7. No costs.