

SUPREME COURT OF INDIA

Commr.of Income Tax

Vs.

Ratnam Poultry Pvt.Ltd.

(S.P.Bharucha, Ruma Pal and S.N.Variava JJ.)

11.08.2000

ORDER

1. Leave granted.

2. Two questions were proposed by the Revenue for reference to the High Court for consideration. They read thus:

“1. Whether on the facts and in the circumstances of the case, ITAT was correct in law in holding that the sale of eggs and birds by the assessee constitutes income of an industrial undertaking for the purpose of allowing deduction under Sections 80-HH and 80-I of the IT Act.

2. Whether on the facts and in the circumstances of the case, ITAT has erred in law in treating the poultry sheds as ‘plant’ and allowing a higher rate of depreciation.”

3. The High Court declined to order the reference and the Revenue is in appeal.

4. The first question is now covered by the decision of this Court in CIT v. Venkateswara Hatcheries (P) Ltd. The second question may not be so covered. It is, therefore, appropriate to direct the Income Tax Appellate Tribunal to refer both questions to the High Court. The High Court may answer the first in the manner stated above and consider the second question.

5. Accordingly, the civil appeal is allowed. The order under appeal is set aside. The Tribunal shall now make a reference to the High Court of the two question, set out above.

6. No order as to costs.