

**SUPREME COURT OF INDIA**

Commissioner of Income-Tax

Vs.

Laxmi Wine Merchants

(S.B. Bharucha, N. S. Hegde and Y.K. Sabharwal JJ.)

06.12.2000

**ORDER**

1. The High Court declined to call for a reference of the following question:

"Whether, on the facts and in the circumstances of the case, the Income-tax Appellate Tribunal is justified in holding that the assessee was entitled to the benefits of registration in spite of contravention of rules 38 and 39 of the A. P. Foreign Liquor and Indian Liquor Rules,1970 ? "

2. It did so because of an earlier decision in CIT v. Nalli Venkataramana. The Revenue is, therefore, in appeal by special leave. The decision of the High Court in the case of Nalli Venkataramana was considered by this court in *Bihari Lal Jaiswal v. CIT* [1996] 217 ITR 746 and was found unacceptable. It is, therefore, clear that a question of law does arise which requires the consideration of the High Court, in the light of the judgment of this court in the case of *Bihari Lal Jaiswal* [1996] 217 ITR 746.

3. The civil appeals are allowed. The order under appeal is set aside. The Tribunal shall refer to the High Court the question aforesaid, having drawn up a statement of case.

4. No order as to costs.