

SUPREME COURT OF INDIA

I.-T., Commr. Patiala

Vs.

Roadmaster Inds. of India

C.A.No.17790 of 1997

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

27.02.2001

ORDER

1. The High Court declined to call for a reference at the instance of the Revenue of three questions. It did so in regard to the second question, with which alone we are now concerned, having regard to the statement on behalf of the Revenue made before us, on the ground that it was already covered by a judgment of that High Court in respect of the same assessee but for an earlier assessment year. The second question, with which we are concerned, reads thus:

"whether on the facts and in the circumstances of the case, the ITAT was right in law in holding that the assessee was entitled to weighted deduction u/S. 35-B on expenses on sea freight of Rs. 12,65,266/- and insurance charges of Rs. 1,46,109/- incurred by the assessee whether in India or outside?"

2. The question plainly relates to the correct interpretation to be placed upon the provisions of S. 35-B and, therefore, is a question of law, the reference of which ought to have been called for by the High Court.

3. Accordingly, the civil appeal is allowed. The order under appeal is set aside insofar as it relates to the second question and the question, quoted above, shall be referred by the Tribunal to the High Court for its opinion, after drawing up a statement of case.

4. No order as to costs.

Appeal allowed.