

# SUPREME COURT OF INDIA

Assistant Commissioner of Income-Tax

Vs.

Nirma P. Ltd.

(D Raju and S V Patil JJ.)

19.07.2002

## ORDER

1. Leave granted.

2. This appeal has been filed against the order of a Division Bench of the Gujarat High Court in Income-tax Appeal No. 270 of 2000, wherein the learned judges chose to dismiss the appeal filed by the Revenue summarily on the ground that they do not find any substantial question of law involved in the appeal. The Revenue sought to raise before the High Court for its consideration the following questions of law which, according to the appellant, constituted substantial questions of law and which also required to be considered on the merits by the High Court:

"(i) Whether the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow adjustment of interest expenses ?

(ii) Whether the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow relief to the assessee with respect to the profit on sale of raw materials ?

(iii) Whether the Appellate Tribunal is right in law and on facts in directing the Assessing Officer not to charge interest under Sections 234B and 234C of the Act?"

3. Heard Mr. Rajiv Tyagi, learned counsel for the appellant, and Mr. S. Ganesh, learned senior counsel for the respondent. After considering the arguments and taking into account some of the decisions relied upon respectively by learned counsel on either side which we designedly do not intend to refer to in this order to avoid giving any indication of expressing any opinion either way, we consider it appropriate and necessary to set aside the order of the High Court under challenge on the simple ground that the questions sought to be raised constitute substantial questions of law and really call for at any rate consideration on the merits and decision by the High Court.

4. The appeal is, therefore, allowed, the order of the High Court is set aside and the matter is remitted to the High Court with the direction to restore the proceedings to its original file and

consider the three questions, noticed above, on merits and in accordance with law and decide the same after hearing both the parties. No costs.