CALCUTTA HIGH COURT

Commissioner of Income-Tax

Vs

Textile Machinery Corporation

(P.B Mukharji, C.J. T Basu, J.)

09.07.1970

JUDGMENT

P.B. Mukharji, C.J.

1. This income-tax reference under Section 66(1) of the Indian Income-tax Act, 1922, refers the three following questions for determination by the court. The questions are :

> "(1) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the steel foundry division was an industrial undertaking to which Section 15C of the Indian Income-tax Act, 1922, applied?
>
> (2) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the jute mill division set up by the assessee-company was an industrial undertaking to which Section 15C of the Indian Income-tax Act, 1922, applied?
>
> (3) Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the claim for deduction of wealth-tax paid during the accounting year was admissible in computing the assessee's profits from its business ?"

2. We can straightaway dispose of the third question as we find it is already covered by the

decision in Travancore Titanium Products Ltd. v.

Commissioner of Income-tax, , where the Supreme Court held that the amount of wealth-tax paid by an assessee on his net wealth under the Wealth-tax Act, 1957, was not a permissible deduction under Section 10(2)(xv) of the Indian Income-tax Act, 1922. Following the decision we answer the third question in the negative and in favour of the revenue.

3. We are, therefore, left with the first two questions. The Central controversy in these two questions is, about the meaning to be given to the expression "industrial undertaking" in Section 15C of the Indian Income-tax Act, 1922, and, in particular, the meaning to be given to the words "reconstruction of business already in existence" in Section 15C (2)(i) of the Income-tax Act, 1922. To appreciate the controversy and its different aspects it will be necessary to set out the relevant facts.

4. The assessee is the Textile Machinery Corporation Ltd., which is a heavy engineering concern manufacturing boilers, machinery parts, wagons, etc. The assessment years concerned in this reference are 1958-59 and 1959-60 for which the corresponding accounting years are the calendar years 1957 and 1958, respectively. For its assessments for the years 1958-59 and 1959-60 the assessee claimed exemption of tax under Section 15C of the Income-tax Act, 1922, in respect of the profits and gains derived from its steel foundry division and a similar claim for relief under Section 15C in respect of its profits and gains derived from its jute mill division for the year 1959-60 only.

4. The Income-tax Officer found that the castings made by the steel foundry division were being used mostly by other existing divisions of the assessee itself. According to the Income-tax Officer the assessee was manufacturing some castings which it was previously buying from the market. As no profit could be made on such departmental transfers and as in the opinion of the Income-tax Officer it could not be said that the assessee started a new industrial undertaking which manufactures or produces articles so as to entitle it to relief under Section 15C, he rejected the assessee's claim for both the years. So far as the claim under Section 15C in the jute mill division for the assessment year 1959-60 was concerned, the Income-tax Officer found that out of the total sales of this department of Rs. 13,03,509 sales to the boiler division amounted to Rs. 11,89,812. The raw materials were supplied by the boiler division and after machining and forging the parts were given to the boiler division. The Income-tax Officer's opinion was that this kind of an activity was in the nature of job-work and he considered the jute mill division to be merely an expansion of the existing activities in the heavy engineering concern of the assessee and, therefore, came to the conclusion that the assessee was not entitled to any relief under Section 15C.

5. On appeal by the assessee before the Appellate Assistant Commissioner the contention of the assessee was that it was immaterial whether the parts manufactured in the steel foundry division or the jute mill division were utilised by the other divisions of the assessee when considering relief under Section 15C. The emphasis then put by the assessee was that so long as the steel foundry division and the jute mill division were separate independent units of machinery, building, etc., the provisions of Section 15C were attracted. The Appellate Assistant Commissioner dismissed the appeal of the assessee. He came to the conclusion that the business remained the same and all that had happened was "some re-construction in the business, re-construction in the sense that, instead of purchasing some parts from outside, the appellant started producing the same itself". He was of the view that the industrial undertaking for exemption under Section 15C must be a new industrial undertaking and must be a separate business. The Appellate Assistant Commissioner considered also the decisions in *Ashok Motors Ltd. v. Commissioner of Income-tax*[1]*, and Commissioner of Income-tax v. Standard Motor Products of India Ltd*[2]*.,* on which the assessee relied.

6. When the matter came up in appeal before the Tribunal, the Tribunal allowed the appeal of the assessee and set aside the decisions of the Income-tax Officer and the Appellate Assistant Commissioner. The Tribunal came to the conclusion that the assessee had established that the steel foundry division was a new industrial undertaking, not formed by the splitting up or re-construction of an already existing business. The Tribunal also held that profits, could be earned by the steel foundry division even though its manufacturing products were mostly utilised in the assessee's other business of manufacturing wagons, boilers, etc;, and appeared to rely on the Supreme Court decision in Tata Iron & Steel Co. Ltd. v. State of Bihar, . The Tribunal held that the assessee was entitled to exemption under Section 15C of the Indian Income-tax Act, 1922, both in respect of its steel foundry division and the jute mill division.

7. Some more relevant facts on record may be usefully noted here. The assessee claimed a sum of Rs. 2,13,034 in respect of business income of the steel foundry division as exempt under Section 15C of the Income-tax Act, 1922. The profit and loss account showed that, out of the total sales of Rs. 28,23,127 worth of steel castings, goods worth Rs. 18,39,433 were used for the boiler section. Therefore, the castings were used mostly by the other existing division of the assessee itself. Then again, the Income-tax Officer points out that, apart from the fact that any profit on such sales to other departments would be profit from oneself, it would appear that the present activity of the company was a mere normal expansion of the existing business. The assessee was thus manufacturing some castings which it was previously buying from the market and that fact could not'be said to create the stiuation where the assessee can be described as having started a new industrial undertaking which manufactures or produces articles so as to

entitle it to relief under Section 15C.; The Income-tax Officer, therefore, on those facts of the steel foundry division, came to the conclusion that the assessee being itself a big heavy engineering concern, such expansion of activities is in the normal process Of the business which did not constitute a new industrial undertaking within the meaning of Section 15C of the Income-tax Act, 1922.

8. In respect of the jute mill division the records show that the profit of Rs. 1,85,337 for which exemption was claimed under Section 15C of the Income-tax Act, 1922, the relevant facts found by the Income-tax Officer are that, out of the total sales of Rs. 13,03,509, sales to the boiler division amounted to Rs. 11,89,812. These sales consisted of the job work only and nothing else. The raw materials were supplied by the boiler division and, after machining and forging, the parts were given to the boiler division. The only sales to outside consisted of parts in respect of jute mills and amounting to Rs. 1,13,697. It is recorded that the assessee admitted that, so, far as the products of the jute mill parts were concerned, the company was in an initial and an experimental stage only and whatever profit was earned under the jute mill division is in respect of the work done on behalf of the boiler division.

9. The Appellate Assistant Commissioner found the following facts. The assessee is a heavy engineering concern manufacturing boilers, etc. The parts manufactured by the steel foundry division and the jute mill division being essential for the boiler division, these two divisions, viz., the steel foundry and the jute mill divisions, were set up by the assessee so as to avoid purchasing such parts from outside. He, therefore, records the fact that these two units of steel foundry and jute mill divisions were set up with a view to manufacturing parts for being used in the manufacture of boilers, etc., which was the existing business of the appellant. His conclusion, therefore, was that the business remained the same and all that had happened was reconstruction as mentioned above.

10. The Tribunal in coming to its conclusion that both the steel foundry and the jute mill divisions of the assessee were new industrial undertakings relies on the following considerations. The machinery was new, housed in a separate building and that industrial licences had to be obtained for manufacturing the parts in question. New machinery, housed in a separate building and industrial licence were the three reasons shown by the Tribunal to come to the conclusion that they were separate businesses. The Tribunal was of the opinion that these two divisions were not re-constructions of existing business. , According to the Tribunal, the existing business of the assessee consisted of manufacturing boilers, wagons, etc., and for that purpose the assessee was purchasing the spare parts, forgings and castings from outside. In fact; the Tribunal came to the conclusion that the business of the new industrial undertaking was to manufacture those spare parts; Hence, the Tribunal's view was that it could not be said that this was formed out of the

existing business. The last reason of the Tribunal was that, even though the manufactured products of the new industrial undertaking were mostly used in the assessee's other business of manufacturing wagons, boilers, etc., the element of profit was there and the extent of the same could be ascertained as the assessee was maintaining separate books of account and, therefore, the Tribunal applied the principle laid down by the Supreme Court in Tata Iron & Steel Co. Ltd. v. State of Bihar.

11. As the decision on this referrence depends on the interpretation of Section 15C of the Indian Income-tax Act, 1922, it will be appropriate to approach the questions first in the tight of the Section itself and later on to discuss the case law pn the point.

12. Section 15C of the Income-tax Act, 1922, was introduced by the Taxation Laws Act, 1949 (67 of 1949) Taxation Laws (Extension to Merged States and Amendment) Act, 1949--[1950] 18 I.T.R.

(St.) 17. It finds its place under Chapter 3 of the Indian Income-tax Act, 1922, dealing with "taxable income" and its juxtaposition is within the group of Sections dealing with "exemptions from income-tax". Its marginal note or headnote is under the title "exemption from tax of newly established industrial undertakings". The expression "newly established" is not to be found as such in the body of the section or its Sub-sections. The relevant parts of Section 15C, for the purposes of a decision in this reference, read, inter alia, as follows:

> "(1) Save as otherwise hereinafter provided, the tax shall not be payable by an assessee on so much of the profits or gains derived from any industrial undertaking to which this section applies as do not exceed six per cent. per annum on the capital employed in the undertaking, computed in accordance with such rules as may be made in this behalf by the Central Board of Revenue.
>
> (2) This section applies to any industrial undertaking which--
>
> (i) is not formed by the splitting up, or the reconstruction of, business already in existence or by the transfer to a new business of building, machinery or plant used in a business which was being carried on before the 1st day of April, 1948 (now amended as "previously used in any other business". The amendment applies retrospectively by the Finance Act of 1959);....
>
> (iii) employs 10 or more workers in a manufacturing process carried on with the aid of power, or employs 20 or more workers in a manufacturing process carried on without the aid of power . . . ."

13. The dominant requirements of Section 15C as quoted above and so far a are relevant for the purposes of this reference are--

(1) that there has to be an "industrial undertaking ", (2) that the claim must relate to "profits or gains derived from" such industrial undertaking, (3) that such profits do not exceed 6 per cent. per annum on the capital employed in the undertaking, (4) that the industrial undertaking is not formed by splitting up or the reconstruction of business already in existence or by transfer of building, machinery or plant, and (5) must employ ten or more workers in the manufacturing process carried on with the aid of power or twenty or more workers in the manufacturing process carried on without the aid of power.

14. These five statutory requirements should be borne in mind in answering the present questions on this reference.

15. The first consideration is that this is an exemption or a relief to the assessee. The section assumes that the assessee is starting the industrial undertaking and it is only when he satisfies the requirements of Section 15C that the assessee will get the limited exemption in respect of so much of his profits which he derives from that undertaking and which do not exceed 6 per cent, of the capital employed. We are, therefore, unable to accept the extreme doctrine advanced in the arguments from the bar for the revenue that when the same assessee starts a new industrial undertaking no question of exemption under Section 15C can arise. That argument, in our view, is fallacious. As we read this Section 15C we are impressed with the idea that this was an exemption or a relief, small though it be, intended to be given to the same assessee wanting to establish a new industrial undertaking. It was an impetus and stimulus to that extent The next step in the interpretation is the meaning to be given to the word "undertaking" and the words "industrial undertaking". "Undertaking" is a very general and wide term. It has both literary as well as technical connotations. Here we take the view that the expression "industrial undertaking" must have a technical and economic content. Industrial legislation is rapidly specialising itself in diverse and divergent fields and there are many industrial statutes, in the absence of any industrial code, which speak in different voices and in different languages not only on the same subjects but also on cognate subjects. For instance, the problem here has been argued whether the meaning of the exprsssion "industrial undertaking the Indian Income-tax Act would be the same as an industrial undertaking under the Industrial Disputes Act or in many other pieces of industrial legislation such as the Industries (Development and Regulation) Act, 1951, which we will have to consider in this reference. Time perhaps is coming fast for a more coherent and co-ordinated picture of these concepts on common problems of law and economic concepts such as these in an industrial code.

16. Pursuing the interpretation of the word "undertaking", and particularly "industrial undertaking", we have been shown dictionary meanings which we do not propose to quote here. Normally, anything undertaken to be done is an undertaking. An industrial undertaking, therefore, would normally be, in its ordinary acceptation, some industrial concern or enterprise or adventure which is undertaken to be done by the person concerned. Whether the industrial undertaking means only the physical assets or the human assets involved in it or the principles of organisation which cover it are to a certain extent unrealistic because we are of the view that industrial undertakings cover a complex of ideas both physical and non-physical and we will not choose one at the cost of the other, It is a complex of ideas and methods of practical execution and therefore, must necessarily involve both tangible and intangible considerations.

17. We do not consider it essential to discuss the cases on this point, but we only make a brief reference to one or two authorities to which reference was made from the bar. One is the Supreme Court decision in State of Bombay v. Hospital Mazdoor Sabha, , dealing with the Industrial Disputes Act and the interpretation of the word "undertaking" in Section 2(j) of the Industrial Disputes Act. It is said there that it is the character of the activity which decides the question (see page 616) and it is indicated there that such an activity which can come within the meaning of the word "undertaking" involves a co-operation of the employer and the employees and satisfaction of material human needs and must be organised or arranged in a manner in which trade or business is generally organised or arranged. The Privy Council in In re Radio Communication in Canada, [1932] A.C. 304 (P.C.), and in speaking through the words of Viscount Dunedin at page 315, observed :

" 'Undertaking' is not a physical thing, but is an arrangement under which of course physical things are used".

18. Again, Lord Porter in the *Privy Council in Attorney-General for Ontario v. Israel Winner*[3], followed the observations of Lord Dunedin in the case just quoted above. The Indian Income-tax Act, 1922, does not define what is an undertaking or what is an industrial undertaking. It is always undesirable to interpret the expression in one statute in the light of that expression appearing in a different statute. .It is not the course which courts usually encourage. Reference was made at the bar to the definition of "industrial undertaking" in Section 3(d) of the Industries (Development and Regulation) Act, 1951, where it says :

> " 'Industrial undertaking' means any undertaking pertaining to a scheduled industry carried on in one or, more factories by any person or authority including Government."

19. The words "industrial undertaking" in the Indian Income-tax Act, 1922, should, in our view,

be interpreted to mean any venture or enterprise which a person undertakes to do and which has relation to some industry or has some industrial consequences. The notion of an undertaking basically means that it has igot to be a concrete and tangible venture in the path of industry to make it an industrial undertaking.

20. Pursuing the course of interpretation of Section 15C of the Income-tax Act, 1922, it appears to us that the industrial undertaking must be such where some capital is employed and Which is separate to the extent as to show how much a 6 per cent. return on it would be in order to merit or qualify for the exemption from tax under Section 15C. In other words, this industrial undertaking should not be such where it would be difficult to find the capital employed or where it is a part and parcel of the general capital employed otherwise by the assessee. This employment of the capital need not be formal in the sense of actually raising the capital and putting it into the new industrial undertaking, but, nevertheless, there must be a definite employment of capital in that undertaking and that is one of the requirments of the statute. The idea is that this factor of capital being employed in that undertaking to qualify for exemption under Section 15C is to introduce a kind of separateness to that undertaking which can be taken by itself apart from the general context of the business or the industry of the assessee.

21. From this follows the next consideration in the interpretation of Section 15C(2) of the Income-tax Act, 1922. It is definitely enjoined by Section 15C(2)(i) that this section would not apply to any industrial under taking which is formed by the splitting up or reconstruction of business already in existence or by transfer as mentioned therein. Obviously, it.

means that an industrial undertaking may be formed by splitting up an old organisation or by reconstruction of a business already in existence or by the transfer to a new business of the building, machinery or plant used in a business which is already being carried on before the 1st April, 1948. If, therefore, the steel foundry division and the jute mill division of the assessee is an industrial undertaking but is formed by the reconstruc tion of the business already in existence, then the assessee would not be within the relief under Section 15C of the Income-tax Act, 1922. All new industrial undertakings are not exempted under Section 15C. An industrial undertaking which is formed by the splitting up or reconstruction of the b usiness already in existence is not within the exemption.

22. The next step in the interpretation is of the word "reconstruction" and of the expression "business already in existence" used in Section 15C(2)(i) of the Income-tax Act, 1922. Now, reconstruction is again a very general and wide term. The fact here is that the goods which this jute mill division and the steel foundry division are producing now for the assessee were also previously used by the assessee in its business but they were purchased from outside and what

has happened now is that this purchase from outside is replaced by production or manufacture from within their own business. The question then is, is it or is it not a reconstruction of the existing business. The expression "business already in existence", in this context, must necessarily mean and include the purchase of goods in the outside market for the simple reason that they were used for the business of the assessee. It was a part of the busine'ss of the assessee to run its business and, for that purpose, if necessary, to get its goods even from outside. The business, therefore, remained the same. The method of procurement of the goods has changed. Instead of procuring from outside, they were being manufactured from within by the assessee itself under these two divisions. Taking abroad view of the expression "reconstruction", it is difficult to hold that this change of producing one's own goods systematically used in the existing business instead of buying them from outside would not be reconstruction of a business already in existence. There is one other aspect of this expression "business already in existence". It is being argued from the bar on behalf of the assessee that this business of producing these goods, castings and forgings were not there. That is true, but business does not only mean actual production of the goods in question but also includes the business of getting the goods even from outside so long as these goods had all along been employed in the existing business of the assessee.

23. At the same time it would be necessary to indicate certain other aspects of the interpretation of the expression "business already in existence" in Section 15C(2)(i) of the Income-tax Act, 1922. We shall call this aspect as the feeder principle or the canopy principle. In the course of argument it was suggested by the learned counsel for the revenue that any industrial, undertaking which really was intended to feed the main stream or business of the assessee would be within the expression "business already in. existence." It was also argued by the learned counsel for the revenue on the same strain that when the assessee is a company carrying on business, it must carry on. business within its charter of memorandum and articles of association. The far-reaching implication of this argument is that the canopy of charter spreads so that no industrial undertaking started by such a company can at all claim exemption because it is only carrying on business within its charter of incorporation and, therefore, is a "business already in existence" within the meaning of Section 15C. We have no hesitation in rejecting these two arguments advanced on behalf of the revenue in their extreme form. No doubt an assessee which is a company doing its business under its memorandum of objects and articles of association has to do its business within its charter but then the charter contains usually numerous, objects in the memorandum and articles and it is common knowledge that such a company often carries, on business only in one or two or even more objects of the company and not in other objects stated in the memorandum or articles. Therefore, if it starts an industrial undertaking, no doubt within its objects and charter, then it can, in an appropriate case, claim exemption, under Section 15C of

the Indian Income-tax Act and say that it is not business already in existence but it is permitted by the charter but which had not been undertaken so far but is now being undertaken. For instance, in this very case in the memorandum of objects and articles of association Clause 3(i) describes a number of objects by which the company is authorised to carry on business, namely, "to carry on the business of manufacturing machinery, engines, turbines, tanks, ships, bodies, tools, implements, accessories" equipments and other materials and products in India and elsewhere." Now, this assessee, the Textile Machinery Corporatton, is not manufacturing ships at the moment. Suppose it does, it will be within its objects and in that event if it otherwise satisfies the requirements of the statute then such a new industrial undertaking of ship-building, within the charter of objects, will be entitled to claim exemption under Section 15C of the Indian Income-tax Act, 1922. No doubt an assessee, which is a company doing business under its charter of incorporation, when it wants to establish a new industrial undertaking, it must be well within its objects, otherwise such an industrial undertaking will be ultra vires the company.

24. While, therefore, these extreme propositions advanced by the learned counsel for the revenue cannot be accepted, yet there is a residue of consideration which may be effective in appropriate cases and the present case is one such appropriate case. The expression "business already in existence" must be given its ordinary commercial meaning. The business already in existence in this case is the business of heavy engineering and in particular the business of manufacturing wagons and boilers. In doing that business castings and forgings are necessary ingredients. In fact the assessee had to have these castings and forgings but they bought them from outside. In so far as they started producing and manufacturing themselves, the assessee, in this case, therefore, was doing something which was reconstruction of the business already in existence and to that extent the feeding principle may be invoked but no more, and to that extent the canopy principle may be invoked and no more and, subject to the limitations of these principles of feeder or canopy as we have indicated, each case has to be judged on its own facts whether the business was already in existence or not.

25. Lastly, the limit of employment of 10 or 20 persons is a test which has to be satisfied by the assessee to claim exemption under Section 15C of the Income-tax Act and it does not appear from the records that the assessee in this case has satisfied that test, for there is nothing to show that they are within the limits specified by Section 15C(2)(iii). The onus of proving the facts which entitle the assessee to claim the exemption under Section 15C of the Income-tax Act, 1922, must necessarily lie upon the assessee in the first instance. We do not find that the assessee has shown that fact on the records.

26. Incidentally, we are constrained to comment at this stage on the way that the proceedings have taken place and on the way the fact have been found by the taxing authorities including the

Tribunal. For instance, there is no specific finding on what is the capital employed by the assessee in these two divisions, namely, the steel foundry division and the jute mill division. There is no focussing of attention also on what exactly are the profits derived from these two divisions which are a requirement under that section. The taxing authorities are practical bodies and are not intended only to theorize what is an industrial undertaking divorced from the context of facts. In fact, the Income-tax Officer observed :

> "Since no Section 15C is available in my opinion on the grounds mentioned above, the figures furnished by the assessee in respect of computation of Section 16C relief have not been verified."

27. It is not only a question of figure but also to some extent a question of principle in the interpretation of Section 15C of the Income-tax Act, 1922. No doubt, an undertaking has to be an industrial undertaking but it has to be an industrial undertaking within the meaning of Section 15C and which meaning requires that it has to be seen that the profits derived from that undertaking do not exceed 6 per cent. of the capital employed in that undertaking. So, the situation may well arise that an undertaking is an industrial undertaking in the ordinary sense of the term, but that the profits claimed are in excess of 6 per cent, of the capital employed. The unfortunate part is that, even though the Income-tax Officer said so, the higher appellate authorities including the Appellate Assistant Commissioner or the Tribunal did not check or verify the facts or find the facts on this point. Lastly, there is no finding as to the workers employed in this instance in order to see whether the test laid down by Section 15C(2)(iii) has been satisfied. We expect that in future in the statement of facts and the findings of tacts will be more qarefully drawn up in the light of the sections discussed. We have indicated that one of the requirements of Section 15C is quantification of the "profits derived from an industrial undertaking". Learned counsel for the revenue has urged before us that there is no profit in this case. This is only a case of inter-departmental sales. There are two aspects of this argument. The facts already mentioned above would show that, so far as the steel foundry division is concerned, roughly about 1/3rd of the output is sold outside and 2/3rds are consumed by the assessee's boiler division. With regard to the jute mill division more than 90 per cent. is consumed by the assessee in its own business and only about 8 per cent. is sold outside. Those facts seem to indicate that the major portions of the products of the steel foundry division and the jute mill division are consumed internally by the assessee. The surplus or residue is sold and that is only a minor portion. It was at this point that the learned counsel for the assessee, Dr. Pal, relied on two decisions, one of the Supreme Court and the other of the Gujarat High Court. The Supreme Court decision is Tata Iron Steel & Co. Ltd. v. State of Bihar. Now, this is not a case under the Income-tax Act. It was a case under the Bengal Cess Act. That is the first distinction from the present

reference. The decision was concerned with Sections 5, 6 and 72 of the Bengal Cess Act and whereunder a local cess was imposed in the case of mines and quarries on the "annual net profits from the mines". The ratio of that decision was that there could be an annual profit from the mines in cases where the ore produced from them was not sold as ore but was utilised as a raw material for the manufacture of other products which were sold. This decision was intended to be utilised by Dr. Pal for the assessee by relying on the observations at page 133-34 of that report which are, inter alia, as follows :

> "The question, therefore, arises whether when sale or a commercial transaction which might result in a profit takes place not of the commodity itself but of something into which it is transformed 'a profit' could be said to accrue by reason of the acquisition of the basic commodity ..... In other words, is it the position that if there is loss of that identity the concept of 'a profit' arising from the production of that commodity also disappears ? We find it difficult to appreciate the ratio behind the contention that if the mined ore is processed, and the processed product commercially goes under another name, because the processing result in extensive modifications of the law material, then the sale of the finished product can in law yield no-'profit' from the working of the mine"

28. Dr. Pal for the assessee utilised this observation to advance his argument that the products manufactured by the steel foundry and the jute mill divisions, viz., the castings and the forgings were a kind of raw material like the one in that case before the Supreme Court. Having done that, Dr. Pal then relied on the observations at page 136 of the report of that case, where it was said :

> "But what we are now concerned to point out is that if it is capable of dismemberment or disintegration into its components, it would not be correct use of language to designate the profits so apportioned and ascertained as attributable to each line of activity and the less real than the aggregate profit realised from all the ventures. ..... Undoubtedly, in odrer to ascertain the profits from the mine there would have to be a disintegration, of the gross profits which finally emerge from the sale of the finished steel or steel products. What we desire to point out is that this involves no disintegration of the business affording scope for the contention based upon the principle that a person cannot trade with himself, but the one far removed from it, viz., whether when a profit has been made as a conjoint result of different but integrated operations, the profits so derived could be broken up so as to permit the attribution of specific amounts of profit to each or any of the several operations or activities."

29. Therefore, Dr. Pal for the assessee argues that, although it is interdepartmental sales, the intermediate product is helping the end product to earn profit and there could be a sort of

apportionment. Hence according to Dr. Pal for the assessee, there could be profit derived from such an undertaking within the meaning ot Section 15C of the Income-tax Act, 1922. The analogy which Dr. Pal tried to draw from the Supreme Court decision in Tata Iron & Steel Co. Ltd. v. State of Bihar with the present reference before us is far-fetched. As we have already said, that Supreme Court decision was not at all concerned with the interpretation of Section 15C of the Indian Income-tax Act, 1922, and was not concerned with the expression "profits derived from such undertaking". The other case on which Dr. Pal, for the assessee, relied is the decision of the Gujarat High Court in *Anil Starch, Products Ltd. v. Commissioner of Income-tax*[4], The problem there was of an assessee-company formed originally for the manufacture and sale of industrial starch, subsequently setting up another plant for producing dextrose, a pharmaceutical product, of which starch is the raw material. The ratio of that decision was that the profits of a new undertaking under Section I5C of the Income-tax Act, 1922, should be computed on ordinary commercial principles and the revenue would be entitled to enquire and ascertain the real profits by acting on commercial principles, i. e., on the basis of the realistic value of the business assets transferred from one activity to another. Therefore, the decision of the Gujarat High Court was that the starch produced under the old undertaking and used as raw material in the new industrial undertaking should be taken at market price for the purpose of computing profits and gains of the new undertaking under Section I5C of the Income-tax Act, 1922. The first ground of distinction between that case and the present reference is that in the Gujarat case the applicability of Section 15C of the Income-tax Act, 1922, was not questioned at all. The main question there, as set out at page 518 of the report, was :

> "Whether the assessee-company, while computing profits or gains derived from its newly established industrial undertaking, which are exempt under Section 15C(1) of the Income-tax Act, 1922, is entitled to claim the actual cost to it rather than the market value of the raw materials manufactured by its existing industrial undertaking and used by the new undertaking ?"

30. Therefore, the question whether Section 15C at all applied was not in issue in that case. The second distinction is that the theory of raw material being processed into a finished product taken with the analogous theory of primary product, intermediate products and end product, is not, in our view relevant or appropriate to the facts in the present reference. There starch was the raw material for dextrose and we are not convinced that castings and forgings in the present reference could be described as raw materials for boilers and wagons. One can understand, as is already indicated in the Tata case, that the original mined ore is the raw material for the finished steel products, but surely that analogy does not apply to the facts in the present reference before us.

31. Here, at this stage, we shall notice one or two more decisions on the interpretation of Section

15C of the Indian Income-tax Act, 1922. One ,is a Division Bench decision of this court in Industrial Gases Ltd. v. Commissioner of Income-tax, [1965] 58 I.T.R. 317 (Cal.). The first principle it lays down is that the exemption under Section 15C has to be strictly construed. The second principle it lays down is that the unit of assessment is the assessee and not the industrial undertaking. The third principle it lays down is that the exemption under Section 15C is confined to the profits derived from the industrial undertaking and not to the profits derived from any trade or business carried on by the assessee other than the industrial undertaking. The other principles are concerned with industrial and non-industrial activities of the assessee with which we are not concerned. The ratio of that decision is that the commercial activities of the assessee were entirely separate from its business of manufacturing industrial gases and as such the profits made by the assessee from the sale of gases and equipment were not exempt under Section 15C. With these principles of that decision we associate ourselves.

32. The Madras High Court in Ashok Motors Ltd. v. Commissioner of Income-tax expressed the same view when it said that Section 15C of the Income-tax Act, 1922, did not make an industrial undertaking per se the unit of assessment and it makes a clear distinction between an assessee and the industrial undertaking and that the exemption must be confined to profits derived from the industrial undertaking and cannot operate in respect of any profit derived by the assessee from any trade or business other than the industrial undertaking. The further principle it lays down is that, even in a case where the assessee carries on an industrial undertaking as well as business activities intimately connected with the industrial undertaking, the advancement of which cannot be secured except by the assessee's engaging in such other business activities, it is only the profits of the industrial undertaking that would be eligible for the exemption under Section 15C of the Income-tax Act. These principles are not in dispute in the present reference. The other decision of the Madras High Court is Commissioner of Income-tax v. Standard Motor Products of India Ltd which emphasised the principle of strict construction of Section 15C of the Income-tax Act and the extent of 6 per cent. on the capital employed. There it was held that the business in spare parts was essential to the subsistence of the industrial undertaking of the assessee and a failure or cessation to carry on such business would not put an end to the undertaking itself and that the profits on the sale of spare parts did not form part and parcel of the income of an industrial undertaking and was not entitled to exemption under Section 15G of the Income-tax Act, 1922. We need only emphasise the observations made by the Madras High Court in the Standard Motor case at page 818 of that report, which read as follows :

> "For purposes of Section 15C there can be no merger of several, business activities into the industrial undertaking, however much they maybe closely allied to or intimately associated with the latter. The exemption has to be strictly construed, and the language of

> the enactment prevents the extension of the benefits to income which is merely incidental or ancillary to the industrial undertaking but which does not arise from and out of it. The protection is only to the income from the undertaking and not to other income from the satellites in it its orbital system."

33. Drawing this analogy, Mr. Pal for the revenue has said that the jute mill division and the steel foundry division are "satellites in the orbital system" in this case.

34. The next point of construction of Section 15C of the Income-tax Act, 1922, relates to the question whether the industrial undertaking must mean that there must be some manufacture or Production item. On this point. Dr. Pal, for the assessee, relied on *Commissioner of Income-tax v. Ajay Printery Private Ltd.*[5], and specially the observations of the learned Chief Justice there, at page 815, discussing the question of what is a manufacture. That was not a case under Section 15C of the Indian Income-tax Act, 1922. He also relied on*Commissioner of Income-tax v. Tata Locomotive and Engineering Co. Ltd.*[6], *d*iscussing the meaning of manufacture. We have no difficulty on this branch of the argument in accepting the argument of Dr. Pal for the assessee, that forging and casting are manufacture. It is unnecessary to multiply cases on this point.

> "The term 'forging' is used to describe all mechanical hot working of metal but it is usually applied more specifically to the mechanical working of metals by the application of an intermittent force rather than of a continuous one as in rolling. Thus a forging hammer works the metal by successive blows while a forging press applies kneading and squeezing action. These typify the simplest tools for forging."

35. See page 345 of the Metals Handbook edited by Taylor Lyman, published by the American Society for Metals, 1958). That authority at page 523 also described castings or steel castings in these terms ;

"Cast steel is steel that is poured into mould or refractory moulds and allowed to solidify. This steel may be used commercially in the cast form (steel castings) or it may be further processed by hot or cold working to become wrought steel. A steel casting is a steel object that has been cast initially into the shape desired for the finished product and does not require mechanical working,"

36. It will be apparent both from common knowledge as well as technological expertise quoted above that casting and forging certainly are within the meaning of the ordinary conception of a manufacture. Here again a heavy engineering industry such as that of the assessee normally has to depend as part of its business on casting and forging either produced by itself or purchased from outside. That only supports further the view that we have taken that it is the business

already in existence within the meaning of Section 15C(2)(i) of the Income-tax Act, 1922, so as to disqualify the assessee on the facts of the present reference from claiming an exemption under that section.

37. Proceeding further with the interpretation of Section 15C(2)(i). it would be noticeable that the word "form" is used in that provision. "Form" indicates some kind of structure or establishment indicating organisation with a shape and a pattern. The section implies that an industrial undertaking may be "formed" in that sense by the splitting up or the reconstruction of business already in existence or by the transfer as mentioned therein. Therefore, every "form" of an industrial undertaking is not necessarily entitled to claim exemption under this provision because if an industrial undertaking is fromed by the splitting or reconstruction or by transfer as mentioned therein, it will not be entitled to the exemption. But the word "form" appears to indicate some kind of a shape or a separate concretisation. Beyond that it would be inappropriate to impose any limitation or rigid qualification on the word "form".

38. Reverting back to the interpretation of the word "reconstruction" in Section 15C(2)(i) of the Indian Income-tax Act, 1922, we have notice the decision of the Bombay High Court in *Commissioner of Income-tax v. Gaekwar Foam & Rubber Co. Ltd.*[7]*,.)* The ratio of that decision is that, in the facts of that case, the agreement there was both in substance and in form one of out and out sale and the only relation that remained between the partnership and the assessee-company was that the members of the partnership became shareholders in part in the assessee-company and this was held to be not a reconstruction of an existing business and on that ground a Division Bench of the Bombay High Court came to the conclusion that th& assessee-company there was entitled to relief under Section 15C of the Income-tax Act, 1922. At page 669 of that reports, S. T. Desai J. delivering the judgment of the Bombay High Court, made the following observation with which we associate ourselves :

"The expression 'reconstruction' represents a legal conception. It: has been used in statutes relating to company law but even there, as we shall point out a little later in our judgment, no judge has ever attempted to give a comprehensive definition of that expression. The Income-tax Act: does not define the expression. This is just as well since it seems difficult to have a definition which may aptly meet with every particular instance and it seems permissible to enter a caveat against any judicial attempt at a definition exclusive or inclusive of a legal expression which, as has so often been said, has no precise meaning. The expression, though difficult to define, may be described without difficulty."

39. This decision of the Bombay High Court also referred to the celebrated observations of Buckley J. in In re South African Supply and Cold Storage Co., [1904] 2 Ch. 268 286 (Ch. D.),

which read as follows :

"What does 'reconstruction' mean ? To my mind, it means this. An undertaking of some definite kind is being carried on, and the conclusion is arrived at that it is not desirable to kill that undertaking, but that it is desirable to preserve it in some form, and to do so, not by selling it to an outsider who shall carry it on--that would be a mere sale--but in some altered form to continue the undertaking in such a manner as that the persons now carrying it on will substantially continue to carry it on. It involves, I think, that substantially the same business shall be carried on and substantially the same persons shall carry it on. But it does not involve that all the assets shall pass to the new company or resuscitated company, or that the shareholders of the old company shall be shareholders in the new company or resuscitated company. Substantially, the-business and the persons interested must be the same. Does it make any difference that the new company or resuscitated company does or does not take over the liabilities ? I thing not. I think it is nonetheless a reconstruction because from the assets taken over some part is excepted provided that substantially the business is taken, and it is immaterial whether the liabilities are taken over by the new or the resucitated company or are provided for by excepting from the scheme of reconstruction a sufficient amount to answer them. It is not, therefore, vital that, either the whole assets should be taken over or that the liabilities should be taken over. You have to see whether substantially the same persons carry on the same business; and if and they do, that I conceive, is a reconstruction."

40. Now, the above observations of Buckley J. were made in connection with company law. That learned judge, a great authority on company law, expressed the view in that case that reconstruction had no definite legal meaning and it was a commercial and not a legal term and even as a commercial term it had no exact or definite meaning.

41. The concept of reconstruction in company law is in many ways a very limited concept. The expression "a scheme for the reconstruction of any company or companies "appears in Section 394 of the Companies Act, 1956. But such reconstruction within the concept of company law is a kind of arrangement between a company and its creditors or any class of them or between a company and its members or any class of them as indicated in Section 391. The very origin of this concept of reconstruction in company law is stamped with the situation where the company is in some difficulty with its members or creditors and as will also be apparent from the fact that Section 394 appears under Chapter V of the Companies Act dealing with "compromises, arrangements and reconstructions". What we are, however, concerned with, is not reconstruction of a "company" but recon-struction of a "business" under Section 15C(2)(i) of the Indian Income-tax Act, 1922. Reconstruction of a company with its limited concept is not the same thing as reconstruction of a business. If Mr. Justice Buckley was right that even the concept of

reconstruction in company law had no definite legal meaning and was only a commercial term and which even as a commercial term had no definite connotation, then it will be all the more so when we are considering the reconstruction of a business and not the reconstruction of a company. Here, commercial content of reconstruction is mnch wider when we are considering the reconstruction of a business. Such reconstruction need not be occasioned by any embarrassment with a company's creditors or members but may involve, as a matter of commercial development or commercial expediency, many considerations as of improvement, rationalization, prevention of waste or delay in the work of the business itself, or automation or mechanisation.

42. This disposes of the major points of interpretation on Section 15C of the Indian Income-tax Act, 1922, in so far as it relates to the questions in the present reference. There still remains to consider three other aspects of this problem argued in this reference before us. One is that the machinery was new in the present case in respect of the steel foundry division and the jute mill division of the assessee. The newness of a machinery cannot, in our opinion, by itself constitute an industrial undertaking. Machinery as part of technology is progressing from day-to-day and the old machinery has often to be replaced by new ones not merely on the ground of depreciation and wearing out but on the ground of replacement by the modern improved machinery. New machinery may also be needed, to improve the quality and quantity and speed of production of goods. In these circumstances, the newness of the machinery may well be a feature of "reconstruction" of business, Secondly, it has been also argued that these two divisions of the assessee, namely, the jute mill division and the steel foundry division, are housed separately although in the same campus. Separate housing, again, in our view, is not by itself decisive on the point of a new industrial undertaking. Better arrangement might dictated separate housing. Many other considerations of business convenience and expediency may require separate housing which will not avoid the fact of separate housing being a part of reconstruction of business already in existence. Similarly, keeping separate accounts of these two divisions by itself may not also be decisive on the point of being an industrial undertaking. Better business methods and accounting and auditing arrangements might dictate separate accounts and separate books for different activites of an existing business or an industrial undertaking. Thirdly, it has been argued that industrial licences had to be obtained by the assessee for these-divisions and that fact gives the character and quality of a new industrial undertaking within the meaning of section 15C of the Indian Income-tax Act, 1922. That is a point which requires a more elaborate and careful treatment.

43. How far the fact of industrial licence for the steel foundry division and the jute mill division makes it an industrial undertaking to qualify, for exemption of tax under Section 15C of the

Indian Income-tax Act, 1922, is the crux of this problem. Dr. Pal, for the assessee, submits that this fact of industrial licence establishes that it is a new industrial undertaking qualified for exemption of tax under Section 15C of the Income-tax Act, 1922. We shall now consider this argument.

44. Before we consider this argument we have to make our comments on the way that the paper book has been made in this reference. Although the Tribunal expressly mentions in its order the industrial licence in this case, that industrial licence has not been printed in the paper book in this reference. The Tribunal did not even mention under what particular statute this industrial licence was obtained. At the same time the Tribunal was putting forward the fact of this industrial licence as a reason for holding that it is a new industrial undertaking entitled to qualify for the exemption under Section 15C of the Income-tax Act. It appears from the records that no argument was put forward by the assessee on the basis of this industrial licence either before the Income-tax Officer or before the Appellate Assistant Commissioner. The reference is only made by the Tribunal on this point of industrial licence.

45. We called upon counsel both for the revenue and for the assessee to produce that industrial licence referred to by the Tribunal in its order. It has been done. A copy has been produced. We direct that it be kept as part of the paper book, in the records of this reference. This industrial licence shows that it was given in Form F prescribed under rule 15 of the Registration and Licensing of Industrial Undertakings Rules, 1952. It is issued by the Government of India, Ministry of Commerce and Industry, New Delhi, dated the 7th May, 1953. It reads as follows :

> "An application No. Nit dated the 27th January, 1953, for a licence having been received from M/s. Textile Machinery Corpn. Ltd. for effecting a substantial expansion to their existing industrial undertaking, namely, Textile Machinery Corpn. Ltd., under rule 7 of the Registration and Licensing of Industrial Undertakings Rules, 1952, the Central Government, in exercise of the powers conferred by Rule 15 of the said rules, hereby grants this licence to effect a substantial expansion to their existing industrial undertaking, subject to the following conditions:
>
> (1) Effective steps as defined in rule 2(ii) of the Registration and Licensing of Industrial Undertakings Rules, 1952, shall be taken for effecting this substantial expansion within the period of six months from the date of issue of the licence.
>
> (2) This substantial expansion shall be effected within a period of 18 months from the date of issue of this licence.
>
> (3) This substantial expansion shall constitute a new electric furnace of 3 ton per charge

capacity for the manufacture of steel castings and special alloy steels.

(4) The undertaking shall make its own arrangements for the raw materials required.

(5) Any prospectus or other document by which the public is invited to subscribe capital for this substantial expansion shall contain the following statement:

A licence has been obtained from the Central Govenment for effecting a substantial expansion to this undertaking of which a copy is open to public inspection at the Head office of the company. It must be distinctly understood that in granting this licence, the Government of India do not take any responsibility for the financial soundness of this undertaking or for the correctness of any of the statements made or opinions expressed in regard to it.

Sd/-

Deputy Secretary to the Government of India."

46. This licence indicates that it was granted under the Industries (Development and Regulation) Act, 1951, and the Registration and Licensing of Industrial undertakings Rules, 1952, made under that Act. Before proceeding to discuss that statute and the provisions made in the sections of the statute and the rules made thereunder, the outstanding features of this licence must be stated at the outset. They are :

(1) That this licence expressly uses the language "a substantial expansion to their existing industrial undertaking". Therefore, the existing industrial undertaking is what is mentioned and not a new or any other industrial undertaking. It would imply that it is the existing business of the assessee which alone can be included by the expression "their existing industrial undertaking".

(2) That this substantial expansion shall constitute a new electric furnace of 3 ton per charge capacity for the manufacture of steel castings and special alloy steels. From that provision it follows that this licence does not cover the jute mill division of the assessee which is also claiming for exemption under Section 15C of the Indian Income-tax Act, 1922. This industrial licence, therefore, is only confined to the steel foundry division of the assessee.

47. The statutory complex operating on this point is represented by the three statutes, (1) the Indian Income-tax Act, 1922, (2) the Industries (Development and Regulation) Act 1951, and (3) the Wealth-tax Act, 1957, and Dr. Pal for the assessee has advanced his arguments on all these three statutes.

48. Section 15C of the Income-tax Act, 1922, came into the statute book in 1949. Analogous, though not similar, provisions are repeated in Section 80J of the Income-tax Act, 1961. The Income-tax Act does not refer to a "business expansion"--substantial or otherwise--in dealing with the case of an industrial undertaking under Section 15G of the Income-tax Act, 1922.The next statute within two years was the Industries (Development and Regulation) Act, 1951. The preamble of that statute says that it was "an Act to provide for the development and regulation o,f certain industries".In Chapter 3 of that statute of Industries (Development and Regulation) Act, 1951, dealing with "regulation of scheduled industries" certain sections like Sections 11, 11A and 13 appear. Section 11 deals with licens ing of new industrial undertakings. Section 11A deals with licence for pro ducing or manufacturing new articles. It is Section 13 of that statute which is relevant for the purpose of this reference. We shall consider this provision in some detail.

49. Section 13(1)(d) of the Industries (Development and Regulation) Act, 1951, provides, inter alia, that:

"No owner of an industrial undertaking, other than the Central Government, shall--.....

(d) effect any substantial expansion of an industrial undertaking which has been registered or in respect of Which a licence or permission has been issued, or.....except under, and in accordance with, a, licence issued in that behalf by the Central Government and, in the case of a State Government, except under and in accordance with the previous permission of the Central Government."

50. Then, there occurs an Explanation in Section 13 of the Industries (Development and Regulation) Act, 1951, which reads as follows :

> "For the purposes of this Section, 'substantial expansion' means the expansion of an existing industrial undertaking which substantially increases the productive capacity of the undertaking, or which is of such a nature as to amount virtually to a new industrial undertaking, but does not include any such expansion as is normal to the undertaking having regard to its nature and the circumstances relating to such expansion."

51. On the strength of this Explanation, Dr. Pal, for the assessee, submits that the industrial licence in the present reference shows that it is a case of "substantial expansion" which means either the expansion of an existing industrial undertaking substantially increasing the productive capacity of that undertaking or which is of such a nature as to amount virtually to a new industrial undertaking within the meaning of that Explanation, This argument has many attractions but the attractions are deceptive.

52. The statutory Explanation occurring in Section 13 of the Industries (Development and Regulation) Act, 1951, expressly says "for the purposes of this section", which means Section 13, and that means that for the purpose of licensing only. In other words, the whole object and purpose of this section, as its language indicates, is that where there is a case of substantial expansion a licence would be required on the terms and conditions mentioned in this statutory provision. The reason behind such a statutory provision is plain because substantial expansion may include setting up of many plants, machinery or other things which the Government may feel should be controlled by its licensing policy and Clauses, for otherwise there might very well be discrimination between the cases of new; industrial undertakings set up and old industrial undertakings making substantial expansion. Whatever may be the reason, no notice has been taken by the Income-tax Act of this doctrine of "substantial expansion" and the necessary licensing mentioned in the Industries (Development and Regulation) Act, 1951. The Income-tax Act has been amended even after 1951 but even these subsequent amendments do not make any reference to the Industries (Development and Regulation) Act of 1951. It is noticeable that this very Section 15C of the Income-tax Act, 1922, has been amended in 1953, 1956, 1959, 1960 and 1961. It is plain from that fact that the concept of licensing of substantial expansion under the Industries (Development and Regulation) Act, 1951, has not been extended to the Income-tax Act and its exemption under Section 15C thereof.

53. The last branch of the argument of Dr. Pal on this point for the assessee was based on the Wealth-tax Act, 1957, and its provisions. The relevant sections of the Wealth-tax Act, 1957, on this point are section 5(1)(xxi) and Section 45(d) with its Explanation. We shall briefly notice these provisions of the Wealth-tax Act. Section 5(1)(xxi) of the Wealth tax Act excludes "that portion of the net wealth of a company established with the object of carrying on an industrial undertaking in India within the meaning of the Explanation to Clause (d) of Section 45, as is employed by it in a new and separate unit set up after the commencement of this Act by way of substantial expansion of its undertaking." The idea behind the argument of Dr. Pal, for the assessee, is that an industrial undertaking on those terms is excluded from the wealth concept under the Wealth-tax Act. As will be seen from the statutory provision just quoted, it will be necessary to consider the Explanation to Section 45(d) of the Wealth-tax Act. Section 45(d) of the Wealth-tax Act provides, inter alia :

"The provisions of this Act shall not apply to--....

any company established with the object of carrying on an industrial undertaking in India in any case where the company is not formed by the splitting up, or the reconstruction of a business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being previously carried on....."

54. This provision will at once show that it repeats almost the language of Section 15C(2) of the Income-tax Act, 1922, in so far as it uses the express sion, "where the Company is not formed by splitting up or reconstruction of a business already in existence or by transfer to a new business of any building, machinery or plant used in a business which was being previously carried on". Therefore, Dr. Pal, for the assessee, is thrown back to the old position even under the Wealth-tax Act. Hense is the Wealth-tax Act passed in 1957, six years after the Industries (Development and Regulation) Actof 1951, but which does not make any mention of the doctrine of "substantial expansion" as explained in the statutory Explanation in Section 13 of the Industries (Development and Regulation) Act, 1951. The conclusion is irresistible, therefore, that under the Income-tax Act 1922, and the Wealth-tax Act, 1957, the concept of substantial business expansion under the Industries (Development and Regulation) Act, 1951, is not recognised. We are, therefore, bound to hold that these statutes do not help the assessee in this case for relief under Section 15C of the Indian Income-tax Act, 1922.

55. For the reasons recorded above and on the authorities cited, we proceed to formally record our answer to the questions set out in the statement of the case. On the first question we are of the opinion that the Tribunal was not right in holding that the steel foundry division was an industrial undertaking to which Section 15C of the Indian Income-tax Act, 1922, applied. We, therefore, answer the first question in the negative in favour of the revenue.

56. On the second question we are of the opinion that, in the facts and circumstances of the "case, the Tribunal was not right in holding that the jute mill division set up by the assessee-company was an industrial undertaking to which Section 15C of the Indian Income-tax Act, 1922, applied. We, therefore, answer the second question also in the negative in favour of the revenue.

57. We have already answered the third question in the negative in favour of the revenue.

58. The assessee will pay the costs of this reference, T.K. Basu, J.

59. I agree.

Cases Referred.

1[1961] 41 I.T.R. 397 (Mad.)
2[1962] 46 I.T.R. 814 (Mad.)
3[1954] A.C. 541 ; [1954] 3 All E.R. 177, 186 (P.C.)
4[1966] 59 I.T.R. 514 (Guj)
5[1965] 58 I.T.R. 811 (Guj)
6[1968] 68 I.T.R. 325 (Bom.)
7[1959] 35 I.T.R. 662 (Bom