

# CALCUTTA HIGH COURT

Alkali and Chemical Corporation of India Ltd

Vs

Commissioner of Income Tax

(Dipak Kumar Sen,J.)

18.06.1986

## JUDGEMENT

**Dipak Kumar Sen,J.**

( 1. ) THIS reference arises out of the income-tax assessment of Alkali & Chemical Corporation of India Ltd., Calcutta, the assessee, in the asst. yr. 1971-72, the accounting year ending on September 30, 1970.

( 2. ) ON an application of the assessee under s. 256(1) of the IT Act, 1961, the following questions have been referred, as questions of law arising out of the order of the Tribunal, for the opinion of this Court: "Question No. 1.--Whether, on the facts and in the circumstances of the case and on a proper interpretation of the IT Act, the Tribunal was right in upholding the allowance of interest paid by the assessee to the extent of Rs. 1,63,386 ? Question No 2.-- Whether, on the facts and in the circumstances of the case, the Tribunal was right in upholding the disallowance of the assessee's claim of Rs. 18,653 for depreciation?" On an application of the Revenue also under s. 256(1) of the IT Act, 1961, the following questions have been referred, as questions of law arising out of the order of the Tribunal, for the opinion of this Court : "Question No. 1.--Whether, on the facts and in the circumstances of the case, the Tribunal was right in holding that the sum of Rs. 13,645 representing reimbursements of medical expenses to the employees was not an expenditure resulting directly or indirectly in the provision of any benefit or amenity or perquisites to the employees within the meaning of s. 40(a)(v) of the IT Act, 1961 ? Question No. 2.--Whether, on the facts and in the circumstances of the case, the Tribunal was correct in holding that borrowed moneys should be included in the capital employed for the purpose of computing the relief under s. 80J of the IT Act, 1961 , in respect of the new industrial undertaking ?"

( 3. ) SO far as question No. 2 referred at the instance of the assessee is concerned, the same appears to be covered by s. 35(2)(iv), which was amended by the Finance Act, 1980, with retrospective effect from 1st April, 1962. The legal position following the amendment of the said

section is not disputed by the assessee. Accordingly, we answer question No. 2 in the affirmative and in favour of the Revenue. ;