

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 78 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

HONOURABLE MR.JUSTICE Z.K.SAIYED

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)

Versus

THE A'BAD MFG. & CALICO PRIN- TING CO. LTD. - Respondent (s)

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Appearance :

MR MANISH R BHATT for Applicant(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

and

HONOURABLE MR.JUSTICE Z.K.SAIYED

Date : 29/01/2008

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE D.A.MEHTA)

1. Income Tax Appellate Tribunal, Ahmedabad Bench - C has referred the following two questions at the instance of the Revenue under section 256(1) of the Income Tax Act, 1961 ('the Act').

1. "Whether, the Appellate Tribunal is right in law and on facts in holding that salary and wages payable under the award amounting to Rs. 20,10,000/- is an admissible deduction, though the said amount was neither paid to the employees nor it was debited in the accounts?

2. Whether , the Appellate Tribunal is right in law and on facts in directing the Assessing Officer to allow the deduction claimed under Section 80-J of the Act on the amount of work in progress ?"

2. The assessment year is 1977-78 and the relevant accounting period is the financial year ended on 31.3.1977. Mr. M. R. Bhatt learned Senior Standing Counsel appears for the applicant- revenue. Though served, there is no appearance on behalf of the respondent-assessee.

3. Mr Bhatt has fairly invited attention to the decision of this Court in assessee's own case reported in (2000) 244 ITR 156 to submit that the

first question stands answered by the aforesaid decision. Similarly, in so far as the second question is concerned, it was pointed out by Mr. Bhatt that the Apex Court's judgment in the case of Commissioner of Income Tax vs. Alocock Ashdown & Co. Ltd., reported in (1997) 224 ITR 352 has concluded the issue.

4. In the circumstances, following the aforesaid judgments, both the questions referred for the opinion of this Court are answered in the affirmative, that is, in favour of the assessee and against the revenue. The Reference stands disposed of accordingly with no order as to costs.

(D.A. MEHTA, J.)

सत्यमेव जयते (Z.K. SAIYED, J.)

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THE HIGH COURT
OF GUJARAT

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