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(2006) 04 P&H CK 0134

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Commissioner of Income Tax	APPELLANT
Vs	
Nahar Spinning Mills Ltd.	RESPONDENT

Date of Decision: April 19, 2006

Acts Referred:

- Income Tax Act, 1961 - Section 256

Citation: (2007) 293 ITR 516

Hon'ble Judges: Rajesh Bindal, J; A.K. Goel, J

Bench: Division Bench

Judgement

1. The present petition has been filed by the revenue u/s 256(2) of the Income Tax Act, 1961, seeking a direction to the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh to refer the following questions of law arising out of its order dated 29-6-1993 in I. T. A. No. 71/ Chandi/89, for the assessment year 1984-85, to this Court for its opinion:

1. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in upholding the order of the first appellate authority in deleting the addition made by the assessing officer on account of cash incentive/duty drawback claims receivable by the assessee

2. Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in upholding the order of the first appellate authority that full/triple -shift allowance is admissible if the factory worked for triple shifts irrespective of the number of days the machinery actually so worked

2. We have heard learned Counsel for the parties and have perused the 2 order passed by the Tribunal.

3. We are of the opinion that the questions of law sought to be raised by 3 the revenue though deserves reference to this Court, however, the same needs reframing. With the assistance of counsel for both the parties, the following reframed question of law is directed to be referred to this Court for its opinion:

Whether, on the facts and circumstances of the case, the amount on account of cash incentive and duty drawback though claimed but not received actually by the assessee would be taxable under the Income Tax Act

4. We, accordingly, direct the Tribunal to prepare the statement of case and refer the above question of law to this Court.