

**(1990) 10 AHC CK 0021**

**Allahabad High Court**

**Case No:** Income-tax Reference No. 972 of 1978

Tulsi Theatre

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

**Date of Decision:** Oct. 25, 1990

**Acts Referred:**

- Income Tax Act, 1961 - Section 32

**Citation:** (1991) 190 ITR 575

**Hon'ble Judges:** B.P. Jeevan Reddy, C.J; G.D. Dubey, J

**Bench:** Division Bench

**Final Decision:** Disposed Of

### **Judgement**

B.P. Jeevan Reddy, C.J.

The Income Tax Appellate Tribunal has referred the following question u/s 256(1) of the Income Tax Act, 1961 :

"Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the cinema building does not constitute "plant" and, consequently, the assessee was not entitled to depreciation at 10 per cent. on building ?

2. This question is concluded in favour of the assessee and against the Revenue by the decision of this court in Income Tax Reference No. 74 of 1978 disposed of on September 12, 1990 [S.K. Tulsi and Sons Vs. Commissioner of Income Tax](#) . It may be mentioned that, in this case too, the cinema is located in a well-constructed building fitted with all the necessary fittings and furniture, etc. Accordingly, the question referred is answered in the negative, i.e., in favour of the assessee and against the Revenue. No costs.