

**(2002) 12 AHC CK 0149**

**Allahabad High Court**

**Case No:** IT Ref. No. 57 of 1983 17 December 2002

ANIL METAL INDUSTRIES

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

**Date of Decision:** Dec. 17, 2002

**Acts Referred:**

- Income Tax Act, 1961 - Section 256, 80J

**Citation:** (2003) 130 TAXMAN 593

**Hon'ble Judges:** Yatindra Singh, J; M. Katju, J

**Bench:** Full Bench

**Final Decision:** Disposed Of

### **Judgement**

@JUDGMENTTAG-ORDER

This is an Income Tax reference u/s 256(1) of the Income Tax Act, 1961. In which the following question has been referred to us for our opinion :

"Whether, on the facts and in the circumstances of the case, the assessee is entitled to relief u/s 80J of the Income Tax Act, 1961 in respect of borrowed capital having regard to the provisions of section 80J as amended by Finance Act (No. 2) of 1980 ?"

2. The assessee is a firm and the relevant assessment year is 1979-80, The petitioner filed a return claiming the benefit u/s 80J of the Income Tax Act and the question involved is whether borrowed capital is to be included in the total capital employed by the assessee for getting relief u/s 80J of the Income Tax Act. It has been held in [Lohia Machines Ltd. and Another Vs. Union of India \(UOI\) and Others](#), that borrowed capital cannot be included in the self-employed capital for getting relief u/s 80J.

3. In the circumstances of the case the question referred to us is answered in the negative that is in favour of department and against the assessee.