

**(2005) 03 AHC CK 0275**

**Allahabad High Court**

**Case No:** IT Reference No. 213 of 1992 9 March 2005

Commissioner of Income Tax,  
Kanpur

APPELLANT

Vs

Champanar Sugar Co. Ltd.

RESPONDENT

**Date of Decision:** March 9, 2005

**Acts Referred:**

- Income Tax Act, 1961 - Section 256, 36

**Citation:** (2006) 154 TAXMAN 177

**Hon'ble Judges:** R.K. Agarwal, J; Prakash Krishna, J

**Bench:** Full Bench

**Advocate:** A.N. Mahajan, for the Revenue and R.S. Agrawal, for the Assessee, for the Appellant;

### **Judgement**

@JUDGMENTTAG-ORDER

P. Krishna, J.

The Income Tax Appellate Tribunal, Allahabad, has referred the following question of law u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for opinion to this court:

"Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal is correct in law in holding that the payments of Rs. 28,205 and Rs. 30,218 for the assessment years 1979-80 and 1980-81 respectively under the head "Bonus" to Senior Members of Employees who are not entitled to receive the bonus under the provisions of Payment of Bonus Act, 1965 is an admissible expenditure under the Income Tax Act ?"

2. Briefly stated the facts giving rise to the present case are as follows :

The reference relates to the assessment years 1979-80 and 1980-8 1. The assessee-respondent is a limited company earning its income from the manufacture and sale of sugar. The assessing officer as well as Commissioner (Appeals) both disallowed Rs. 28,205 and Rs. 30,218 claimed by the assessee towards bonus paid to the senior staff members, in view of the provisions of section 36(1)(it) of the Act. The Tribunal, however, relied upon its earlier order and decided the issue in favour of the assessee for both the years.

3. Heard Shri A.K. Mahajan, the learned standing counsel for the department and Shri R.S. Agrawal, learned counsel for the assessee. In CIT v. Champaran Sugar Co. Ltd. (IT Reference No. 20 of 1990, dated 14-2-2005), we have held that bonus to senior staff members has wrongly been allowed by the Tribunal,

4. Respectfully following the aforesaid judgment we are of the opinion that the Tribunal was not correct in holding that the payment to senior members of the employees who were not entitled to receive the bonus under the provisions of the Payment of Bonus Act, is an admissible expenditure under the Act.

5. Accordingly, we answer the question referred to us in negative, i.e., in favour of the revenue and against the assessee. However, no order as to costs.