

(1991) 03 BOM CK 0011

Bombay High Court

Case No: IT Ref. No. 308 of 1977

Commissioner of Income Tax

APPELLANT

Vs

Synthetic and Chemical Ltd.

RESPONDENT

Date of Decision: March 27, 1991

Acts Referred:

- Income Tax Act, 1961 - Section 32, 33, 43(3)

Citation: (1992) 106 CTR 372

Hon'ble Judges: T.D. Sugla, J; B.N. Srikrishna, J

Bench: Division Bench

Advocate: Dr. V. Balasubramanian, for the Appellant; I.M. Munim, for the Respondent

Judgement

T.D. Sugla, J.

The Tribunal has referred to this Court only one question of law in this reference relating to the assessee's assessment for asst. yr. 1966-67. The question reads thus :

"Whether, on the facts and in the circumstances of the case, the instructions, blueprints, process charts, periodical reports and the manuals relating to the process know-how contained in the form of a file can be treated as "books" and would, therefore, constitute "plant" as defined in s. 43(3) for the purposes of grant of depreciation allowance under s. 32 and development rebate under s. 33 of the IT Act, 1961 ?"

2. The counsel are agreed that in view of our Court's judgment in the case of Commissioner of Income Tax, Bombay City-II Vs. Emco Electro Pvt. Ltd., and the Supreme Court decision in the case of CIT v. Elecon Engineering Co. Ltd., (1987) 166 ITR 66 (SC) , the question is to be answered in the affirmative and in favour of the assessee. The question is so answered.

3. No order as to costs.