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**(1989) 03 CAL CK 0016**

**Calcutta High Court**

**Case No:** IT Reference No. 506 of 1979

Commissioner of Income Tax

APPELLANT

Vs

Ashwini Kumar and Co.

RESPONDENT

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**Date of Decision:** March 9, 1989

**Acts Referred:**

- Income Tax Act, 1961 - Section 256(1)

**Citation:** (1989) 45 TAXMAN 193

**Hon'ble Judges:** Suhas Chandra Sen, J; Bhagabati Prasad Banerjee, J

**Bench:** Division Bench

**Advocate:** A.C. Moitra and Prasad, for the Appellant; M.L. Bhattacharjee, for the Respondent

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### **Judgement**

Suhas Chandra Sen, J.

The Tribunal has referred the following question of law u/s 256(1) of the income tax Act, 1961, to this Court:

Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in allowing the claim of the assessee of Rs. 1,72,750 in respect of land revenue, etc., for the assessment year in question ?

The assessment year involved in this case is 1973-74.

2. The question is whether the assessee was entitled to claim this deduction following the mercantile system of accounting for this particular year.

3. The finding of the Tribunal is that the final settlement was communicated to the assessee immediately after the close of this accounting period and as the accounts for this year were still open, a provision was made for this liability. The Tribunal held that such a provision had rightly been made and should be allowed as a deduction. In view of this finding of the Tribunal, the question must be answered in the affirmative and in favour of the assessee. There will be no order as to costs.

Bhagabati Prasad Banerjee, J.

I agree.