

**(1984) 11 CAL CK 0025**

**Calcutta High Court**

**Case No:** Income Tax Ref. No. 43 of 1979

COMMISSIONER OF INCOME TAX

APPELLANT

Vs

KMW JOHNSON LTD.

RESPONDENT

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**Date of Decision:** Nov. 12, 1984

**Acts Referred:**

- Income Tax Act, 1961 - Section 37(1), 37(2B)

**Citation:** (1987) 59 CTR 160

**Hon'ble Judges:** Suhas Chandra Sen, J; Dipak Kumar Sen, J

**Bench:** Full Bench

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### **Judgement**

Suhas Chandra Sen, J. - The Tribunal has referred the following question of law to this Court :

"Whether, on the facts and circumstances of the case, and on a correct interpretation of sub-ss. (1), (2B) of ss. 37 of the IT Act, 1961, the Tribunal was correct in holding that the expenditure of Rs. 16,083 was an allowable deduction in computing the profits and gains of the assessee's business ?"

2. The assessment year involved is the asst. yr. 1972-73 for which the relevant accounting period is the year ending 31-3-1972. The assessee is a Company. The ITO had disallowed the claim for deduction of the sum of Rs. 16,083 on the ground that the expenditure was for deduction. Ultimately, the matter came up to the Tribunal and the Tribunal allowed the sum to be deducted from the assessee's income.

3. The finding of fact made by the Tribunal have not been challenged in this case. The amount is small and we do not propose to go into the dispute in this reference about the allowability of the deduction under s. 37(2B). The Advocate, for the assessee as well as the Revenue, indicated that many questions may arise in this case, and there is a difference of opinion between various High Courts on some of the points. On behalf of the Revenue, our attention was also drawn to the

amendment made by s. 17 of the Finance Act, 1983.

4. Having regard to the smallness of the amount involved, it is not necessary to go into an elaborate enquiry into those questions on this reference. In view of the findings of fact made by the Tribunal that the expenditure was for the purpose of business of the company, the question is answered in the affirmative. It is, however, made clear that we have not gone into any question of law in this case.

5. There will be no order as to costs.

Dipak Kumar Sen, J. - I agree.