

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 118 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
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UNIVERSAL DUESTUFF INDUSTRIES LIMITED

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

SERVED BY RPAD - (N) for Petitioner
MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 27/02/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal, Ahmedabad has referred for the opinion of this Court the following question under section 256(1) of the Income-tax Act, 1961.

- "1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the assessee was

- not entitled to claim weighted deduction under section 35B of the Income Tax Act, 1961 on
- (a) Rs. 1,12,896/- i.e. 65.5% of staff salary for export.
 - (b) Rs. 56,718/- expenditure on postage, telephone and telegrams and
 - (c) Rs. 95,424/- Bombay office expenses on percentage basis ?"

The relevant assessment year is 1979-80.

In the assessee's own case in respect of the assessment year 1978-79, this Court had, in Income-tax Reference No. 176 of 1984, occasion to consider whether development allowance under section 35B of the Act as it stood at the relevant time was permissible in respect of the items of staff salary, postage, telephone and telegrams, and Bombay office expenses on percentage basis. By its decision dated February 1, 1995, the Court following its earlier decisions in CIT vs. Jai Industries, reported in 196 ITR, 313 and other matters referred to therein held that the assessee was not entitled to any weighted deduction under the said provisions in respect of these items. Following that decision rendered in the assessee's own case, we hold that the assessee is not entitled to claim weighted deduction in respect of three items which are the subject matter of the question referred, and answer the question in the affirmative in favour of the Revenue and against the assessee. The Reference stands disposed of accordingly with no order as to costs.

(R.K. Abichandani, J) (Kundan Singh, J)