

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**I.T.R. No.20 of 1990**

**Date of Decision:28.02.2007**

**The Commissioner of Income-tax, Patiala**

**.....Petitioner**

**Vs.**

**M/s Metalways (P) Ltd., Chandigarh**

**.....Respondent**

**CORAM:- HON'BLE MR. JUSTICE M.M.KUMAR  
HON'BLE MR. JUSTICE RAJESH BINDAL**

Present:- Mr. Sanjiv Bansal, Advocate for the revenue.

Mr. S.K.Mukhi, Advocate for the assessee.

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**RAJESH BINDAL, J.**

Following question of law arising out of order passed by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short, 'the Tribunal') in I.T.A. No.1069 of 1985 dated 7.3.1989, in respect of assessment year 1982-83 has been referred for opinion of this Court :-

“Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in allowing deduction u/s 80J (relying upon its decision for the asstt. Year 1979-80 against which a reference application has since been allowed by the Hon'ble Pb. and Haryana High Court vide its order dated 25.8.1983), though the assessee was not entitled to deduction u/s 80J for the assessment year 1982-83 in view of the fact that the period of five years for which deduction u/s 80J is allowable as laid down by sub-section (2) of section 80J had already expired?”

In view of separate order passed today in I.T.R. Nos.336 & 337 of 1996 (**The Commissioner of Income-tax, Patiala v. M/s Metalways (P) Ltd., Chandigarh**), the question referred is answered against the revenue and in favour of the assessee.

The reference is disposed of accordingly.

**( RAJESH BINDAL )  
JUDGE**

**February 28, 2007  
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**( M.M.KUMAR )  
JUDGE**