IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 120 OF 1999

M/s. Perfect Machine Tools Co. Pvt. Ltd. .. Applicant

v/s.

The Commissioner of Income Tax,
City-IV, Bombay .. Respondent

Mr. K. Gopal a/w Neha Paranjape for the applicant
None for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.
DATED : 22nd JULY, 2016.

P.C.

1. This Reference under Section 256(1) of the Income Tax Act, 1961 (the Act) by the Income Tax Appellate Tribunal for Assessment Year 1980-81 seeks our opinion on the following questions of law :-

(i) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that expenses on customers and principals fell within the purview of amended provisions of Sec. 37(2A), as amended retrospectively by the Finance Act, 1983, and as such were not allowable?

(ii) Whether on the facts and in the circumstances of the case and considering the character of expenditure incurred, the

Tribunal was right in law in holding that the expenses of Rs.77,215/- incurred by the assessee on customers and principals are lavish and luxurious?

(iii) Whether on the facts and in the circumstances of the case, the Tribunal was right in rejecting the assessee's contention that expenses relating to foreign principals as in any case be governed by the provisions of Sec.35B and though no weighted deduction in respect of these expenses have been claimed, the provisions of Sec. 37(2A) would not apply to these expenses?

2. Mr. K. Gopal, learned Counsel appearing for the applicant assessee in support of the Reference very fairly states that question (i) and (ii) as framed would stand concluded against the applicant assessee and in favour of the Revenue by virtue of the decision of this Court in Commissioner of Income-Tax Vs. Indian Plastics Ltd. 240 ITR 528. In the above view, question nos. (i) and (ii) are answered in the affirmative i.e. in favour of the Revenue and against the applicant assessee.

3. Regarding question (iii), Mr. K. Gopal, learned Counsel appearing in support of the Reference states that question (iii) would not survive in view of the answer given to question nos. (i) and (ii) hereinabove.

4. Thus, in the present facts, no occasion to consider question (iii) arises.

5. The Reference is disposed of in the above terms.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**