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C.A.No. 5390 OF 1998

ITEM No.6

Court No. 2

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.5390/1998

C.I.T., A.P.-I, HYDERABAD

Appellant (s)

VERSUS

M/S SRINIVAS PLTRY. & CATTLE FEEDS P.LTD
(Office report for direction)

Respondent (s)

Date : 26/03/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Appellant (s) Mr. B.B. Ahuja, Sr.Adv.
Mr. K.N. Nagpal, Adv.
Mr. Shail Kumar Dwivedi,Adv.

For Respondent (s) Mr. Rustom B.Hathikhanawala,Adv.

UPON hearing counsel the Court made the following
O R D E R

....L.....I.....T.....T.....T.....T.....T.....T.....J
.SP2

The civil appeal is ordered.
No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPEAL NO. 5390 OF 1998@@
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C.I.T., A.P.-I, Hyderabad

....Appellant(s)

versus

M/s. Srinivas Poultry & Cattle Feeds P.Ltd.

...Respondent(s)

O R D E R@@
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.SP2

The High Court declined to call for a reference of the following question.

.SP1

"Whether on the facts and in the circumstances of the case, the Tribunal was correct in law in treating the poultry sheds as "Plant" and thereby allowing the assessee company a higher rate of depreciation?"

.SP2

It did so on the basis that no referable question of law arose. We are unable to agree. A question of law does arise and, therefore, it is necessary to direct the Tribunal to refer the aforesaid question to the High Court for its consideration, after drawing up a Statement of Case.

Order on the appeal accordingly.
No order as to costs.

.SP1

.....J.
(S.P. Bharucha)

.....J.
(Y.K. Sabharwal)

New Delhi,
March 26, 2001.