

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16297/2007

(From the judgment and order dated 20/07/2006 in ITA No. 103/1999  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

COMMR.OF INCOME TAX,BANGALORE

Petitioner(s)

VERSUS

M/S MCDOWELL &amp; COMPANY

Respondent(s)

Date: 02/02/2009 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA  
HON'BLE MR. JUSTICE AFTAB ALAM

For Petitioner(s) Mr. Mohan Parasaran, ASG.  
Mr. Aman Alhuwalia, Adv.  
Mr. B.V. Balaram Das,Adv.

For Respondent(s) Mr. Harish N. Salve, Sr.Adv.  
Mr. Guru Krishna Kumar, Adv.  
Ms. Srikala Gurukrishna Kumar,Adv.

UPON hearing counsel the Court made the following  
ORDER

After hearing learned counsel on both sides, we are of the view that the point in issue has not been examined in detail by the High Court as well as by the Trial Court.

We are of the view that, in the circumstances, it would be in the fitness of the things that the impugned judgment is set aside but the matter is remitted to the Trial Court for fresh

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consideration in accordance with law. The question to be decided by the Trial Court will be "whether the expenditure incurred was allowable under Section 36 & or 37 of the Income Tax Act". It may be mentioned that all other issues/question are closed.

We request the Trial Court to hear and decide the matter preferably within four months.

The Special Leave Petition is disposed of accordingly.

(S. Thapar)  
PS to Registrar

(Madhu Saxena)  
Court Master