

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1466 OF 2008

M/s. Arisudana Spinning Mills Ltd. ...Appellant(s)

Versus

Commissioner of Income Tax, Ludhiana ...Respondent(s)

With Civil Appeal No.2978 of 2008 and Civil Appeal No.1070 of 2009.

O R D E R

Heard learned counsel on both sides.

For the sake of convenience, we may refer to the facts of Civil Appeal No.1070 of 2009 filed by the Department, which concerns Assessment Year 1998-1999. The assessee is aggrieved by denial of deduction which it claimed under Section 80IA of the Income Tax Act, 1961 [‘Act’, for short]. In this case, Return was filed by the assessee on 30th November, 1998, showing income of Rs.36,27,866/-. The said Return was processed under Section 143(1)(a) of the Act. The case was thereafter selected for scrutiny. Notice under Section 143(2) of the Act was, accordingly, issued. The Assessing Officer found that the assessee-Company was engaged in the business of manufacturing of yarn. The assessee derived, during the relevant assessment year, a gross total income of Rs.51,82,666/- from what it called ‘manufacturing activity’. It denied that it had undertaken any trading activity during the year in question. On the said sum of Rs.51,82,666/-, the assessee claimed deduction at the rate of thirty per cent under Section 80IA of the Act amounting to Rs.15,54,800/-. The Assessing Officer found that the assessee had not maintained a separate trading and profit and loss account for the goods manufactured. In the assessment year in question, it appears that the assessee had sold raw wool, wool waste and textile and knitting cloths. When a query was raised, the assessee contended that, for certain business exigencies in the assessment year in question, it had sold the above items. However, according to the assessee, the sale of raw wool, wool waste, etc., would not disentitle it from claiming the benefit under Section 80IA of the Act on the total sum of Rs.51,82,666/- at the rate of 30%. As stated above, the Department found that the assessee has not maintained the accounts for manufacture of yarn actually produced as a part of industrial undertaking. Consequently, the Assessing Officer worked out, on his own, the manufacturing account, as indicated in his Order, giving a bifurcation in terms of quantity of raw wool produced, which is indicated at page 32 of the S.L.P. paper book. Of course, the assessee challenged the preparation of separate trading account by the Assessing Officer in respect of manufacturing and trading activities before the Commissioner of Income Tax (Appeals) [‘CIT(A)’, for short]. The CIT(A), however, applying the rule of consistency, followed the decision of the earlier

year and allowed the appeal. However, the Income Tax Appellate Tribunal has reversed the findings given by CIT(A), which view has been upheld by the High Court. Hence, the civil appeal has been filed by the assessee.

In our view, the findings given by ITAT and the High Court are findings of fact. In this case, we are not concerned with the interpretation of Section 80IA of the Act. On facts, we find that the assessee ought to have maintained a separate account in respect of raw material which it had sold during the assessment year. If the assessee had maintained a separate account, then, in that event, a clear picture would have emerged which would have indicated the income accrued from the manufacturing activity and the income accrued on the sale of raw material. We do not know the reason why separate accounts were not maintained for the raw material sold and for the income derived from manufacture of yarn.

For the above reasons, these civil appeals filed by the assessee are dismissed with no order as to costs.

.....CJI.
[S.H. KAPADIA]

.....J.
[MADAN B. LOKUR]
New Delhi,
September 05, 2012.