IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.674 of 2014

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1. The Commissioner Of Income Tax-11, Patna
2. Deputy Commissioner of Income Tax, Circle -4, Patna.

.... AppellantsAppellant/s

Versus

M/s Aishwarya Health Care, Ashoke Rajpath, Sultanganj, Patna PAN – AAOFA1208J

.... Respondent/ Appellant

with

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Miscellaneous Appeal No. 675 of 2014

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1. The Commissioner Of Income Tax-11, Patna
2. Assistant Commissioner of Income Tax, Circle -4, Patna.

.... Appellants/ Respondents

The Commissioner Of Income Tax-ii, Patna & Anr.

.... Appellant/s

Versus

Smt. Gunjita Nir,Prop; Aishwarya Health Care & Aishwarya Plastic, Sultanganj, Patna
PAN ACMPN 6327K

.... Respondent/Appellant

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Appearance :
(In MA No.674 of 2014)
For the Appellant/s : Mr. Rishi Raj Sinha, Sr. SC Income Tax
For the Respondent/s : Mr. A K Rastogi
(In MA No.675 of 2014)
For the Appellant/s : Mr. Rishi Raj Sinha, Sr. SC Income Tax
For the Respondent/s : Mr. A K Rastogi

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 29-01-2018

These are appeals filed by the Revenue under Section 260A of the Income Tax Act, 1961.calling in question the tenability of orders passed by the Income Tax Appellate Authority, Patna in the matter of allowing deductions as claimed by the assessee under Section 80IC of the Income Tax Act. The assessee undertakes job work by providing labour employment and factory space for the purpose of manufacture of medicines by various manufacturers and claim deductions under Section 801C of the Act and the learned Tribunal found that the issue of deduction claimed by the assessee has already been decided by the Punjab & Haryana High Court in the case of **CIT v. Impel Forge and Forge Allied Industries Limited [(2010) 326 ITR 27]** and it held that for claiming deductions under the aforesaid provisions the assess was at liberty to manufacture for itself or for others and the same does not make any difference. In the judgment of the Delhi High Court in the case of **CIT vs. Sadhu Forging Ltd. [(2011) 336 ITR 444]** was also considered and in paragraph -7 of the impugned order, the learned Tribunal has dealt with the issue in the following manner :-

> "7. ….."Therefore, first of all, it is to be decided whether such activity amounts to works contract or not and if so, whether the deduction under Section 80IC of the Income-tax Act, 1961 is still available. The appellant has relied upon the decision of the Hon'ble Bombay High Court in the case of CIT vs. Glenmark Pharmaceuticals Ltd. reported in 324 ITR 199 and it was claimed that in this decision, it was held that sale of finished goods on the basis of specifications of third party

was contract of sale and not works contract as contract between the two parties was on principal to principal basis."

In our considered view, the aforesaid finding recorded by the Tribunal in both the cases are based on due appreciation of factual material available on record and we see no reason nor do we find on the substantial question of law arising for consideration in these appeals under Section 260A of the Act. In fact, the judgment rendered by the Tribunal are based on questions involved legal principle, approved by various High Courts as indicated in the order and we are not inclined to take a different view in the matter.

Accordingly, finding no substantial questions of law involved in the matter warranting considerations. Both the appeals stand dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	31.01.2018
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