

GAHC010255782023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : ITA/1/2024

MUKAND POLY PRODUCTS
A PARTNERSHIP FIRM REGISTERED UNDER THE INDIAN PARTNERSHIP
ACT, 1932 HAVING ITS REGISTERED OFFICE AT THIRD FLOOR, ROAYL
ARCADE, B. BARUAH, R, ULUBARI, GUWAHATI, KAMRUP (M) ASSAM-
781001 AND IN THE PRESENT PROCEEDINGS, REPRESENTED BY ONE OF
ITS PARTNERS, MR. MUKUND GUPTA.

VERSUS

PRINCIPAL COMMISSIONER OF INCOME TAX GUWAHATI-2 AND ANR.
AYAKAR BHAWAN, GS ROAD, CHRISTIAN BASTI, GUWAHATI-781005.

2:PRINCIPAL COMMISSIONER OF INCOME TAX
CENTRAL
GUWAHATI
AAYAKAR BHAWAN
GS ROAD
CHRISTIAN BASTI
GUWAHATI-781005

Advocate for the Petitioner : MR P K BORA

Advocate for the Respondent :

Linked Case : I.A.(Civil)/3486/2023

MUKAND POLY PRODUCTS
A PARTNERSHIP FIRM REGISTERED UNDER THE INDIAN PARTNERSHIP

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ASSAM- 781001 AND IN PRESENT PROCEEDINGS
REP. BY ONE OF ITS PARTNERS
MR. MUKUND GUPTA.

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GUWAHATI- 781005.

Advocate for : DR. A SARAF
Advocate for : MR. S CHETIA appearing for PRINCIPAL COMMISSIONER OF
INCOME TAX
GUWAHATI- 2 AND ANR.

BEFORE
HONOURABLE THE CHIEF JUSTICE (ACTING)
HONOURABLE MR. JUSTICE KAUSHIK GOSWAMI

ORDER

10.01.2024

(L.S. Jamir, C.J(Acting))

Heard Dr. Ashok Saraf, learned senior counsel assisted by Mr. S.J. Saikia, learned counsel for the applicant.

Mr. S. Chetia, learned Standing Counsel for Income Tax Department appears for the respondent Nos. 1 and 2.

Notice on respondents are complete.

After hearing the learned counsels for the parties, the following substantial questions of law are framed:-

- I. Whether, on the facts and circumstances of the case, the Tribunal was justified and correct in law in confirming the disallowance of claim under section 80-IE of the Act, when the Appellant fulfilled all the mandatory requirements, including the requirement of the submission of the audit report in Form No.10CCB as well as tax audit report in Form 3CB-3CD u/s 44AB of the Act on or before the specified date; and also paid the entire admitted tax before the due date of furnishing the return under sub-section (1) of section 139 of the Act and also furnished the return within the time allowed under sub-section (4) of the section 139 of the Act?
- II. Whether on the facts and circumstances of the case, the time related statutory requirement under section 80AC to furnish the return on or before the due date under sub-section (1) of section 139 of the Act is procedural and/ or directory to allow deduction under section 80-IE of the Act?
- III. Whether the Tribunal was legally justified in disallowing the deduction on the ground of non-fulfillment of the time related requirement of section 80AC of the Act when the mandatory and the procedural requirements for claiming deductions under section 80-IE of the Act have been complied with and there was also 'substantial compliance' of the time related statutory requirements of the provisions of section 80AC of the Act,?
- IV. Whether the Tribunal has not acted illegally and contrary to the judicial

discipline in not following its earlier order on the same issue while deciding the appeal of the appellant?

Admit.

List the matter after four weeks.

In the interim, the order of the Tribunal dated 17.10.2022 shall remain stayed.

JUDGE

CHIEF JUSTICE (ACTING)

Comparing Assistant