IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 1659 OF 2013

Commissioner of Income Tax-1, Mumbai … Appellant

v/s

M/s.Hindustan Petroleum Corpn. Ltd. … Respondent

Mr.Suresh Kumar for the appellant.

Mr.Atul Jasani for the respondent.

CORAM: M.S. SANKLECHA &
N.M. JAMDAR, JJ.

DATED : 16TH JUNE, 2015

P.C.:

This appeal by the revenue challenges the impugned order dated 16 January 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). By the impugned order, the Tribunal allowed the respondent assessee's appeal by following its earlier order passed in respondent assessee's own case for the assessment years 1992-93 to 1995-96.

2 The revenue has proposed the following substantial questions for our consideration:-

(A) Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in relying on Cylinders Rules 2004 referred to in the decisions of jurisdictional High Court in the case of HPCL v/s MSDCEL in Writ Petition No.9455 of 2011 and Gujarat High Court in the case of Bharat Petroleum Corporation Ltd. v/s State of Gujarat & ors., as well as the notification under Section 80IB(4) issued on 4.8.1999, in view of the fact that the same are not applicable in the case of assessee for the assessment year under consideration ?

(B) Whether on the facts and in the circumstances of the case and in law the Tribunal was justified in holding that the bottling of the gas into gas cylinders as a production activity for the purpose of Section 80HH, 80I/80IA ignoring the fact that no new product comes into existence in this process ?

3 The counsel appearing for the parties are agreed that both the questions stand concluded against the revenue and in favour of the respondent assessee by the decision of this Court in respondent assessee's own case in Income Tax Appeal (L) Nos.2131 of 2012 rendered on 7 March 2013. Thus, no substantial question of law arises for entertaining the appeal.

4 Appeal dismissed. No order as to costs.

(N. M. JAMDAR, J.) ***(M.S. SANKLECHA, J.)***