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

INCOME TAX APPEAL NO. 322 OF 2014

Commissioner of Income Tax-2
Mumbai .. Appellant

v/s.

Bharat Petroleum Corporation Ltd. .. Respondent

Mr. Suresh Kumar a/w Ms. Samiksha Kanani for the appellant
Mr. J.D. Mistri, Senior Counsel a/w Mr. Atul Jasani for the respondent

CORAM : M.S. SANKLECHA &
S.C. GUPTE, J.J.

DATED : 23rd AUGUST, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 30th April, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order disposes of all the appeals of the respondent assessee in respect of Assessment Years, 1997-98 and 1999-2000. This appeal is restricted to A.Y. 1997-98.

2. The Revenue has urged the following questions of law for our consideration :-

(i) Whether the activity of mere bottling of LPG gas into cylinders amounts to production or manufacturing activity for the purpose of Sections 80HH/80I/80IA of the Income Tax Act, 1961?

(ii) Whether in the facts and circumstances of the case and in law, the Tribunal is correct in holding that the activity of bottling of LPG amounts to production or manufacturing activity for the purposes of Sections 80HH/80I/80IA of the Income Tax Act, 1961, as the process of bottling the LPG into gas cylinders makes the same marketable on execution of the process even though no new product comes into existence?

3. It is fairly stated by Mr. Suresh Kumar that the impugned order of the Tribunal in so far it relates to A.Y. 1999-2000, was a subject matter of an appeal by the Revenue in Income Tax Appeal No. 264 of 2014 before this Court. By an order dated 15th July, 2016 this Court refused to entertain the appeal of the Revenue being Income Tax Appeal No.264 of 2014 as it did not give rise to any substantial question of law.

4. It is an agreed position between the parties that for the reasons indicated in our order dated 15th July, 2016, this appeal also does not give rise to any substantial question of law.

5. In the above view, the question as raised herein is not entertained. Accordingly, the appeal is dismissed.

(S.C. GUPTE, J.) **(M.S. SANKLECHA, J.)**