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

INCOME TAX APPEAL NO. 320 OF 2014
WITH
INCOME TAX APPEAL NO. 353 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. Both these Appeals under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the common impugned order dated 17th April, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). The common impugned order relate to Assessment Years 1996-97 and 1998-99. Therefore, the two appeals are for each Assessment Year is before us.

2. In both the appeals, the Revenue urges the following identical question 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. The impugned order of the Tribunal allowed the respondent assessee's appeal by placing reliance upon the order of this Court in ***Commissioner of Income Tax Vs. Hindustan Petroleum Corporation Ltd.*** (Income Tax Appeal (L) No.2131 of 2012 and other connected appeals) rendered on 7th March, 2016 which upheld the order dated 31st July, 2012 of the Tribunal. By order dated 31st July, 2012, the Tribunal granted relief to the appellant assessee by holding that the

activity of bottling LPG gas carried out by the respondent assessee would amount to manufacture.

4. Mr. Suresh Kumar, learned Counsel appearing for the Revenue does not contest the issue as it stands concluded against the Revenue by the decision of this Court referred to hereinabove. In the above view, the questions as raised do not give rise to any substantial question of law. Thus, not entertained.

5. Both the appeals are dismissed. No order as to costs.

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