IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO. 264 OF 2014

Commissioner of Income Tax-2 …Appellant
v/s.
Bharat Petroleum Corporation Ltd. …Respondent

….

Mr. Suresh Kumar a/w Ms. Samiksha Kanani ,for the Appellant.
Mr. Atul Jasani, for the Respondent.

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CORAM : M.S. SANKLECHA &
M.S. KARNIK, JJ.

DATED : 15th July, 2016

P.C :

1. This appeal under Section 260A of the Income Tax Act, 1961 (Act) challenges the order dated 30th April 2013, of the Income Tax Appellate Tribunal (Tribunal). The impugned order is in respect of Assessment Year 1999-2000.

2. The Appellate Revenue urges the following question of law for our consideration :-

A. "Whether the activity of mere bottling of LPG gas into gas cylinders amounts to production or manufacturing activity for the purposes of Section 80HH/801/801A of the Income Tax Act, 1961?"

3. We find that the impugned order of the Tribunal allowed the Respondent-Assessee's appeal holding that it is entitled to the benefit of Section 80HH and 80I/80IA of the Act, in respect of its LPG Bottling Plants by following the decision of this court dated 7th March 2013 in Income Tax Appeal Lodging No. 2131 / 2012 (Commissioner of Income Tax Vs. M/s. Hindustan Petroleum Corporation Limited).

4. Mr. Suresh Kumar, learned counsel appearing for the Revenue very fairly states that the issue stands concluded against the Revenue by virtue of the decision in this Court in M/s. Hindustan Petroleum Corporation Limited (Supra).

5. In the above view, as it is a concluded issue, the question as framed does not give rise to any substantial question of law. Therefore, no entertained.

6. Accordingly, Appeal is dismissed. No order as to costs.

(M.S. KARNIK J.) **(M.S. SANKLECHA J.)**