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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7548/2012

SUN PHARMACEUTICAL INDUSTRIES LTD. ..... Petitioner
Through : Sh. V.P. Gupta and Sh. Anunav Kumar, Advocates.

versus

DY COMMISSIONER OF INCOME TAX ..... Respondent
Through : Sh. P. Roychaudhuri, Sr. Standing Counsel.

**CORAM:**
**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**
**HON'BLE MS. JUSTICE DEEPA SHARMA**

**O R D E R**
**% 10.08.2016**

1. The writ petitioner questions a notice under Section 148 of the Income Tax Act, 1961 (hereafter "the Act") issued by the Revenue dated 30.03.2012, proposing to reopen the assessment completed under Section 143(3) of the Act for Assessment Year 2005-2006.

2. The assessee is engaged in pharmaceutical manufacturing; as part of its business functioning, it carries out various research and development activities which include extensive field drug trials and testing. This is towards development of new pharmaceuticals (NPTs) with the ultimate objective of obtaining new products. During the regular assessment, the Assessing Officer (AO) – in respect of the said assessment years – had raised several queries, which included *inter alia* deductions under Sections 80-IB and 80-IC of the Act for

five new industrial undertakings (NIUs), having regard to the documents and materials. In this context, subsequent queries were made by the AO on 05/08.02.2008, which was explained by the assessee.

3. The second issue was with respect to the addition of book profit on account of previous loan default dues and advances. The assessee had filed its returns under Section 115JB and claimed its benefit.

4. The third issue was in respect of statutory disallowance under Section 14A. The last was in respect of production and regulatory expenses.

5. Essentially based on certain audit objections, the AO issued the impugned notice, claiming that the four issues which were expressly queried by the AO in the course of regular assessment under Section 143(3) formed the basis for the “opinion formation” that the incumbent escaped assessment for AY 2005-06.

6. We have heard learned counsel for the parties. At the outset, we notice – a fact not denied by the respondents that in respect of nearly identical “reasons to believe” for the Assessment Years 2004-05 and 2003-04, similar reassessment notices issued were quashed by the Court. The notice for the Assessment Year 2004-05 was quashed by the decision in *Sun Pharmaceuticals Ltd. v. Deputy Commissioner of Income Tax and Another* [W.P.(C) 6729/2011, decided on 14.01.2016]. For Assessment Year 2003-04, it was quashed by the decision in *Ranbaxy Laboratories Limited v. DCIT* [W.P.(C) 6728/2011, decided on 24.01.2013]. At that time the assessee was known as Ranbaxy Laboratories Ltd.

7. We further notice that even on the merits, at least as far as one of the issues is concerned, (where expenses towards product registration and amounts have been spent towards product registration), could be allowed. The assessee's contention has been upheld in *CIT v. Panacea Biotech* [ITA 22/2012, decided on 17.01.2012]. We are of the opinion that since in respect of each of the "Reasons to Believe", there was a specific query by the AO in the course of the assessment framed under Section 143(3) previously, the present petition too has to succeed. Accordingly the impugned order is quashed. The writ petition is accordingly allowed.

**S. RAVINDRA BHAT, J**

**DEEPA SHARMA, J**

**AUGUST 10, 2016**
**ájk**