THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

I.T.T.A.Nos. 298 & 308 OF 2005 AND 176 & 634 OF 2006

DATED 29TH NOVEMBER, 2017

I.T.T.A.No. 298 OF 2005

Between:

The Commissioner of Income Tax – III,
Hyderabad … Appellant

AND

M/s. Andhra Pradesh Paper Mills,
5th Floor, Swapnalok Complex,
S.D.Road, Secunderabad … Respondent

Counsel for the appellant : Sri B.Narasimha Sarma

Counsel for the respondent : Sri Challa Gunaranjan

THE COURT MADE THE FOLLOWING

COMMON JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

The main question of law raised in these appeals by the Revenue is whether Sales Tax and Excise Duty are part of "Total Turnover" for the purpose of deduction under Section 80 HHC of the Income Tax Act, 1961 (for short, 'the Act'), and liable to be excluded from the said turnover for the purpose of deduction under the said provision.

2. At the hearing, Sri B.Narasimha Sarma, learned senior standing counsel for Income Tax Department, has fairly submitted that in ***Commissioner of Income Tax Vs. Lakshmi Machine Works***[1], the Supreme Court held that Excise Duty and Sales Tax do not partake of the character of turnover and therefore they are not includable in the turnover under Section 80 HHC (3) of the Act.

3. In the light of the said judgment, the substantial questions of law framed in these appeals are answered against the Revenue. The appeals are accordingly dismissed.

C.V.NAGARJUNA REDDY, J.

T.AMARNATH GOUD, J.

Date: 29-11-2017.
JSK

[1] (2007) 290 ITR 667 (SC)