THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SMT. JUSTICE T. RAJANI

I.T.T.A.Nos. 123 and 235 of 2003

COMMON JUDGMENT: ***(Per VRS,J)***

Both these appeals are by the Revenue, filed under Section 260A of the Income Tax Act 1961, challenging the orders passed by the Income Tax Appellate Tribunal in respect of the very same assessee, in respect of the assessment years 1997-1998 and 1998-1999.

2. The questions of law raised in both these appeals are:-

1) Whether the appellate Tribunal was justified in holding that the sales tax and excise duty are liable for exclusion from the total turnover for the purpose of computation of relief under Section 80HHC of the Income Tax Act, 1961? and

2) Whether the appellate Tribunal was justified in holding that the net outgo of interest and not gross interest is liable for exclusion under clause (baa) of the Explanation to Section 80HHC?

3. Heard Mr. T. Vinod Kumar, learned standing counsel for the Income Tax Department, appearing for the appellant/Revenue, and Mr. Challa Gunaranjan, learned counsel for the respondent/assessee.

4. The first question of law, as to whether the sales tax and excise duty components are liable for exclusion from the total turnover for

the purpose of computation of relief under Section 80HHC of the Act, has already been answered by the Supreme Court in favour of the assessee in ***Commissioner of Income Tax Vs. Catapharma (India) (P) Ltd.***[1]

5. Similarly, the second question of law, as to whether the net outgo of interest and not gross interest is liable for exclusion under clause (baa) of Explanation to Section 80HHC, has also been answered by the Supreme Court in favour of the assessee in ***ACG Associated Capsules (P) Ltd. Vs. Commissioner of Income Tax***[2].

6. Therefore, the questions of law are answered against the appellant/Revenue and in favour of the assessee. Consequently, both these appeals are dismissed.

As a sequel, miscellaneous petitions if any pending in the appeals shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

T. RAJANI, J.

9th August, 2017
cbs

[1] (2007) 292 ITR 641 (SC)
[2] (2012) 343 ITR 89 (SC)

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(dismissed)

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