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IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION (INCOME TAX)
ORIGINAL SIDE

ITAT/48/2010
COMMISSIONER OF INCOME TAX, KOLKATA-I, KOLKATA
VS.
M/S. AMRIT FEEDS LTD.

BEFORE :
THE HON'BLE JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 1st March, 2023

<u>Appearance</u> :
Ms. Smita Das De, Adv.
....for appellant.

Mr. Asim Choudhury, Adv.
... for respondent.

The Court : This appeal by the revenue filed under Section 260A of the Income Tax Act, 1961 (the Act) is directed against the common order dated 4th September, 2016, passed by the Income Tax Appellate Tribunal, 'A' Bench, Kolkata (Tribunal) in ITA No. 1134/Kol/2009 for the assessment year 2006-07.

The appeal was admitted on 12th February, 2010 on the following substantial question of law :

"Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal erred in law in holding that the respondent/assessee was entitled to deduction of Rs.3,09,87,557/- under section 80 IB of the Income Tax Act, 1961 since the poultry feed prepared by the assessee by mixing various ingredients did not constitute manufacturing or producing ?"

We have heard Ms. Smita Das De, learned standing counsel appearing for the appellant and Mr. Asim Choudhury, learned counsel for the respondent.

After elaborately hearing the learned advocates for the parties and perusing the order passed by the learned Tribunal, we find that the learned Tribunal has followed the orders passed in the assessee's own case for the assessment years 2003-04 and 2005-06. In this appeal the revenue has not stated that those orders have been challenged before this Court nor there is any averment to the effect that those orders have been interfered with or are distinguishable on facts. Thus, the revenue is required to take consistent approach in the matter. Furthermore, we find identical question was considered in the case of P.C.I.T vs. Sona Vets Pvt. Ltd., (2020) 424 ITR 387 and by judgment dated 27th February, 2020, the appeal filed by the revenue was dismissed.

In the light of the above, the appeal is dismissed and the substantial question of law is answered against the revenue.

(T.S. SIVAGNANAM, J.)

(HIRANMAY BHATTACHARYYA, J.)

S.Pal/SN.