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

+ ITA 241/2024

PR. COMMISSIONER OF INCOME

TAX -7, DELHI

..... Appellant

Through: Mr. Puneet Rai, SSC with Mr.
Ashvini Kumar & Mr. Rishabh
Nangia, Advs.

versus

RECLINERS INDIA PVT. LTD.

..... Respondent

Through: None.

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+ ITA 242/2024

PR. COMMISSIONER OF INCOME

TAX-7, DELHI

..... Appellant

Through: Mr. Puneet Rai, SSC with Mr.
Ashvini Kumar & Mr. Rishabh
Nangia, Advs.

versus

RECLINERS INDIA PVT. LTD.

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR

KAURAV

ORDER

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30.04.2024

CM APPL. 24920/2024 (33 Days Delay in filing) & 24921/2024 (61 Days Delay in Refiling) in ITA 241/2024

CM APPL. 24928/2024 (33 Days Delay) & 24929/2024 (61 Days Delay in Refiling) in ITA 242/2024

1. Bearing in mind the disclosures made, the delay in filing and re-



filing of the appeals are condoned.

2. Applications stand disposed of.

CM APPL. 24919/2024 (Ex.) in ITA 241/2024
CM APPL. 24927/2024 (Ex.) in ITA 242/2024

3. Allowed subject to all just exceptions.

4. Applications stand disposed of.

ITA Nos. 241/2024 & 242/2024

5. The Revenue has instituted the present appeals and has posited the following questions of law for our consideration:

“A. Whether on the facts and circumstances of the case, the Ld. ITAT has erred in holding that deduction u/s 80IC based on Sales Tax/ VAT/ Excise documents ignoring the fact that a thorough investigation show that the assessee more or less engaged in assembling activities rather than manufacturing activities?

B. Whether on the facts and circumstances of the case, the Ld. ITAT has erred in holding that deduction u/s 80IC of the Act can be allowed from profit derived at the eligible unit ignoring the fact that more than half of the sale of unit for which deduction u/s 80IC has been claimed relate to trading and not manufacturing?”

6. We note that both the Commissioner of Income Tax (Appeals) [“CIT(A)”] as well as the Income Tax Appellate Tribunal [“ITAT”] have come to the definitive conclusion that the assessee was engaged in the manufacture of recliners. It is in the aforesaid backdrop that the appeal of the Revenue has come to be dismissed.

7. We further note that the CIT(A) while framing its penultimate directions had held as follows:

“3.2 It is noted that appeal was instituted on similar facts for the A.Y. 2012-13 which was decided by the CIT(Appeals) -36 vide order dated 06.03.2017 in New Appeal No. 198/2016-17/Old Appeal no. 114/2015-16 as under:

“10. I have gone through the assessment order, grounds of appeal and the submissions made by the assessee. The basic issue of appeal is claim of deduction u/s 80-IC of Rs. 1,01,94,300/- out of gross income of Rs. 10,49,04,432/-. The



AO has come to the conclusion of not allowing the deduction based on various facts and analysis made in the assessment order. He has amply shown that there were inter unit stock transfer which have also been accepted by the assessee. There were however not mentioned in the Form 10 CCB which were to be reported under clause 28. The second contention is about whether the items have been sold after manufacturing or was it only a trading activity to decide whether 80-IC is available on it. For this purpose the sale tax/VAT return details of the assessee were seen by the AO and also the inspector of the charge was deputed to make a surprise visit to the manufacturing unit of assessee at Roorkee. The assessee's argument mentioned at para 7 of this order are not fully acceptable. In case a inspector has been sent for a surprise visit, obviously he will not give a prior information to the assessee. It was the duty of the inspector to report the clear picture of the activities taking place in the unit of the assessee, whether it was manufacturing, assembling or trading. Probably for that he did not find manufacturing activities or labour, etc. there. On the other hand, assessee has submitted reports of other departments which specifies activities as manufacturing.

11. From the various submissions made by the assessee and the assessment order it emerges clearly that the activities contain both the manufacturing activities and trading activities at the eligible unit. In my opinion, therefore, the assessee is apparently eligible for deduction u/s 80-IC as is clear from the sales tax/ VAT/ excise documents shown to me which were also submitted to the AO. However, the demarcation of manufacturing and other activities has not been clearly brought out. I am therefore inclined to hold that what would be most reasonable is the alternate decision of the AO given in para 10 of the assessment order. It is evident that the assessee has income from other than manufacturing activities also at the eligible unit. Therefore, the deduction of Section 80-IC can be allowed on the profit derived from manufacturing activity at the eligible unit only. It is therefore held that the deduction may be adjusted by other operating revenue and trading and other income related to such unit. The AO is directed that deduction u/s 80-IC may be recalculated as above."

3.3 In the present appeal as the facts are similar, following the order of CIT(Appeals)-36 on this issue, disallowance of deduction of Rs. 3,63,77,200/- claimed u/s 80IC of the Act made by AO is directed to be re-calculated as above. This ground of appeal is party ruled in favour of the appellant."



8. It thus clearly emerges from the record that the issue and aspect of “*manufacture*” was one which had been answered in favour of the assessee in previous Assessment Years’ also.

9. In view of the aforesaid, we are of the considered opinion that the appeals fail to raise any substantial question of law. They shall consequently stand dismissed.

YASHWANT VARMA, J

PURUSHAINDRA KUMAR KAURAV, J

APRIL 30, 2024/kk