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

\+ ITA 369/2024

M/S ARIHANTA INDUSTRIES .....Appellant

Through: Mr. Sachit Jolly, Ms.Mansha Anand, Mr. Aditya Rathore, Mr.Abhyudaya Shankar Bajpai and Ms.Menita Khanna, Advocates

versus

JCIT, SPECIAL RANGE-12, NEW DELHI .....Respondent

Through: Mr. Indruj Singh Rai, SSC with Mr.Rahul Singh, JSC, Mr.Sanjeev Menon, JSC and Mr.Anmol Jagga, Advocate

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\+ ITA 370/2024

M/S ARIHANTA INDUSTRIES .....Appellant

Through: Mr. Sachit Jolly, Ms.Mansha Anand, Mr. Aditya Rathore, Mr.Abhyudaya Shankar Bajpai and Ms.Minita Khanna, Advocates

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 36 (1), NEW DELHI .....Respondent

Through: Mr. Indruj Singh Rai, SSC with Mr.Rahul Singh, JSC, Mr.Sanjeev Menon, JSC and Mr.Anmol Jagga, Advocate.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **22.07.2024**

CM APPL. 40864/2024 (Exemption) & CM APPL. 40866/2024 (Exemption)

Allowed, subject to all just exceptions.

This applications stands disposed of.

ITA 369/2024 & ITA 370/2024

1. The appellant impugns the order of the Income Tax Appellate Tribunal [“**Tribunal**”] dated 17 July 2023 and poses the following questions of law:-

> (A) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in reversing the order of the Commissioner of Income Tax (Appeals) and denying the deduction under Section 80-IC of the Act?
>
> (B) Whether on the facts and in the circumstances of the case and in law, the Tribunal erred in disregarding the Principle of Consistency having noted that on identical facts the Assessing Officer has himself allowed the deduction under Section 80-IC of the Act for the subsequent year i.e., AY 2016-17?
>
> (C) Whether on the facts and in the circumstances of the case and in law, the findings of the Tribunal are perverse in so far as the Tribunal reversed the findings of the Commissioner of Income Tax (Appeals) and reinstated the findings of the Assessing Officer without appreciating the additional evidence lead by the Appellant before the Commissioner of Income Tax (Appeals) which were not considered by the AO and have not been dealt with by the Tribunal in its impugned order?

2. We, however, take note of the following findings of fact which stand reflected in paragraphs no. 50 & 51 of the order impugned before us:-

> “50. It is an indisputable fact that out of the total turnover of Rs.10.73 Cr., the assessee has earned profit and claimed deduction of Rs.9.51 Cr. which is more than 95% of the turnover. The total expenses incurred including the cost of raw material to earn the profit of Rs.9.51 Cr. were to the tune of Rs.1.22 Cr. The Assessing Office r has conducted in depth enquiries to prove the entire business operations as a ploy to plough back unaccounted income in the form of business profits and then claim deduction on the said business profits. The entities to whom the assessee sold the goods have been found to be in the non-business activities and also non-existing. The proprietor of M/s Krishna Enterprises to whom the alleged sale of Rs. 2 .19 Cr. has been made by the assessee could not prove the genuineness of the activity when examined along with the bank statement and the

cash deposits therein which have been transferred to the account of the assessee. Even the KYC Form of the bank does not have any documents regarding the proof of business. Similarly, the enquiry reports of the Inspector pertaining to the existence of M/s Laxmi Ganesh Health Care Division from whom Rs.67 lacs sales have been made by the assessee. With regard to M/s Aastha Impex from whom the assessee received Rs. 72.90 lacs, the enquiries revealed that no such address as given by the assessee was in existence. The M/s Global Marketing Company and M/s Tecpro Sale & Marketing from whom the assessee received a total amount of Rs.3.68 Cr. and also found to be non-existing at the address given and the assessee also could not prove the whereabouts of these entities before the Assessing Officer. The hawan samgri as depicted at para 17 of this order has been sold at Rs.4.85 Cr. as against the cost of Rs.4.40 lacs. Each packet costing Rs.4/- has been sold at Rs.663/- which is about 165 times of the cost price. The total consumption of various ingredients have been duly examined in this order. Further, the enquiries conducted with regard to bank accounts of the parties namely M/s Maheshwari Trading Company from whom an amount of Rs.3.63 Cr. has been received and others proved all cash deposits before the monies have been sent to the assessee through RTGS. The purchases of approximately 4000 kg of raw material at a cost of Rs.18.9 lacs resulting in the turnover of Rs. 10.73 Cr. about 7 employees is truly mind boggling when weighed against plethora of evidences collected by the Assessing Officer gives credence to the fact that the unaccounted income has been laundered as tax free business profit. Similarly, the machinery purchase also could not be proved giving rise to the contention of the Assessing Officer that the production per se is bogus. The cash deposits in the A/c No. 6168002100000354 clearly indicates that the entire receipts by the assessee are out of the cash deposits. The same has been reproduced at page no. 19-31 of this order. The Assessing Officer has also examined the proprietors, the KYC and aptly proved that they were not in the business as what has been shown. The details of Global Marketing Company and Sh. Tarun Malhotra has been a part of this at page 36 to 39 of this order. On going through the purchases of the plant & machinery, raw material, sales nonexistence of the parties, cash deposits in various accounts, it can be concluded that the entire transactions are not supported by any evidences proved with regard to the receipts of the cash by the assessee in the form of business receipts. Having gone through the entire order of the Id. CIT(A), we find that the Id. CIT(A) has mislead himself by the various theoretical proposition of inspections by the Uttarakhand Government certificates, licenses, other documents. When weighed against the tangible evidences collected against the assessee, the reasoning of the Id. CIT(A) mentioned at page no.

59 from point (a) to (k) do not elicit any credence to the activities of the assessee.

51. Hence, keeping in view the entire facts on record, the investigation and the enquiries conducted by the Assessing Officer with regard to the purchase parties of the assessee from whom the raw material of Rs.18.90 lacs has been procured, keeping in view, the enquiries conducted with regard to the sale parties and the absence of genuineness thereof, keeping in view, the cash deposits found in the bank account of the alleged sale parties which have been subsequently routed to the accounts of the assessee, keeping in view the fact that the raw materials consumed of Rs .18. 90 lacs with manufacturing expenses of less than Rs.20 lacs which led to the turnover of Rs.10.73 Cr. which in turn gave rise to Rs.10.21 Cr. cannot be treated as a genuine profit earned out of authentic business activities. We are quite awestruck at the startling profits made by the assessee. In simple terms the profits claimed to have been earned by the assessee is wholly unrealistic by any reasonable standards. Ergo, we hereby affirm the order of the Assessing Officer."

3. In view of the aforesaid, we find that the appeal fails to raise any substantial question of law. It shall consequently stands dismissed.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

JULY 22, 2024/tp