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

\+ W.P.(C) 1228/2007

WINDSOR EXPORTS .....Petitioner

Through: None.

versus

UOI & ORS. .....Respondents

Through: Mr. Bhagwan Swarup Shukla, CGSC with Mr. Praveen Gupta, Adv.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **21.01.2026**

1. By way of present writ petition, the petitioner has challenged the notice dated 01.03.2005 under Section 143(2) of the Income Tax Act, 1961 (*hereinafter referred to as 'the Act of 1961'*).

2. Retrospectivity given to Section 80HHC of the Act of 1961 has been held to be *ultra vires* by the Gujarat High Court and affirmed by Hon'ble the Supreme Court in the case of **Commissioner of Income Tax v. Avani Exports** reported in (2015) 232 Taxman 357 (SC).

3. Following the same in W.P.(C) No. 16816/2006 (**Saroj Dassani v. UOI**), this Court has held thus :-

> "*5. If the judgment dated 30.03.2015 passed by Hon'ble the Supreme Court in Avani Exports (supra) is read in conjunction with the judgement of the Gujarat High Court dated 02.07.2012, it is clear that the finding recorded in para 26, reproduced hereinabove, was upheld with some alteration in para 27 of the*

> *said judgment, that too in favour of the assessees and direction given in para 27 of aforesaid judgment was substituted by the following:*
>
> > *"Having seen the twin conditions and since 80HHC benefit is not available after 1.4.05, we are satisfied that cases of exporters having a turnover below and those above 10 cr. Should be treated similarly. This order is in substitution of the judgment in Appeal".*
>
> *6. The consequence of the judgment dated 30.03.2015 of Hon'ble the Supreme Court, is that irrespective of the amount involved, the amendment brought in Section 80HHC of the Act of 1961 cannot be given retrospective effect.*"

4. In the light of the judgment of **Avani Exports** (***supra***) Hon'ble the Supreme Court and reasoning given in **Saroj Dassani *(supra),*** the impugned notice dated 01.03.2005, is hereby quashed. The petition is allowed.

5. Pending applications (if any) are disposed of.

DINESH MEHTA, J.

VINOD KUMAR, J.

JANUARY 21, 2026/*sr*