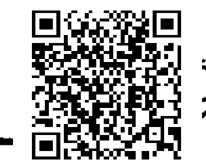

Sr. No.	Date	Orders

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

+ ITA 520/2004

THE COMMISSOINER OF INCOME TAX ..... Petitioner
Through : Mr. R.D. Jolly, Advocate.

versus

M/S NORTHERN AROMATICS LTD. ..... Respondent
Through : NEMO

CORAM:
HON'BLE MR. JUSTICE SWATANTER KUMAR
HON'BLE MR. JUSTICE MADAN B. LOKUR

ORDER
% **28.02.2005**

We have heard the learned Counsel for the appellant at some length. The argument before us is that the assessee had received a sum of Rs.5,61,700/- on account of processing charges and as such they were not involved in the activity of manufacturing. Thus, the benefit of Section 80-IA would not be available to the assessee. This question is primarily a question of fact and has been answered by the Tribunal as follows:-

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"The assessee was deriving processing charges as a result of products manufactured on job work basis for outsiders. The only grievance of the Revenue is that the processing charges so received would be outside the purview of the section 80 I A in so much as that the manufacturing activity which resulted in receipt of such charges was not done by the assessee for itself but for others. The stand of the Revenue is clearly in variance with the views of the Hon'ble Jurisdictional High Court in the case of Nu-look (Pvt.) Ltd. (supra). The activity of the assessee is liable to be regarded as manufacturing activity irrespective of the fact whether the products manufactured there in are for its own business or it is done for others on job work basis. Evidently, section 80IA does not distinguished between the activity involving manufacturing on own account and situations is the same. The only essential pre-requisite u/s 80IA is that the eligible industrial undertaking should be carrying out the manufacture or production of articles or things, an issue which presently is not in dispute before us. It is also note-worthy that the assessing authority in the earlier assessment year i.e. 1995-96 has allowed the claim of the assessee for deduction u/s 80IA. Therefore, having regard to the parity of reasoning initiated in the case of J.P. Kharwar & Sons (supra) and Nu-look Pvt. Ltd. (supra), in our view, the assessee could not be denied the benefit of deduction u/s 80-IA on the incomes represented by processing charges. Hence, in our view, the conclusions drawn by the CIT (A) do not require any interference from our side."

We have also perused the order passed by the Assessing Officer. There is no discussion, much less a

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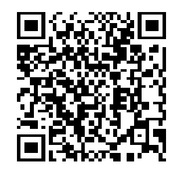

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		plausible evidence before the Assessing Officer to show that the unit of the Assessee was not involved in manufacturing activity. In any case it is a finding of fact which we are not called upon to interfere under the provisions of section 260A of the Act.
		Dismissed.
		SWATANTER KUMAR, J
		MADAN B. LOKUR, J
		FEBRUARY 28, 2005 sk

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