



REPORTA---

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

Judgment reserved on : 13.08.2008
% Judgment delivered on : 01 .09.2008

ITA 1107/2007

DABUR INDIA LIMITED

..... Applicant

versus

**COMMISSIONER OF INCOME TAX,
NEW DELHI**

..... Respondent

Advocates who appeared in this case:

For the Applicant : Mr Pankaj Jain
For the Respondent : Mr R. D.Jolly

CORAM :-

**HON'BLE MR JUSTICE BADAR DURREZ AHMED
HON'BLE MR JUSTICE RAJIV SHAKDHER**

1. Whether the Reporters of local papers may be allowed to see the judgment ?
2. To be referred to Reporters or not ?
3. Whether the judgment should be reported in the Digest ?



RAJIV SHAKDHER, J

1. This is an Appeal under Section 260A of the Income Tax Act (hereinafter referred to in short as the ‘Act’) against the judgment dated 5.4.2007 passed by the Income Tax Appellate Tribunal (hereinafter referred to in short as the ‘ITAT’) in ITA No. 3907/Del/2004 in respect of assessment year 2001-02. Before the Tribunal the Revenue had, amongst others, raised the following grounds, which are, also in issue before us:-

“1.The Ld. CIT(A) has erred in directing the AO to recomputed deduction under section 80-IB in view of the Hon’ble Supreme Court’s order in the case of CIT Vs. Mahindra Mill, 243 ITR 56 ignoring the facts that the said decision of the Apex Court pertains to A.Y. 1974-75 and since then the law has changed by omission of section 34(1).

2. On the facts and in the circumstances of the case the Ld. CIT(A) has erred in directing the AO to recomputed deduction u/s 80-HHC by withdrawing depreciation in view of the Hon’ble Supreme Court’s order in the case of CIT Vs. Mahindra Mills, 243 ITR 56, ignoring the fact that the said decision of the Apex Court pertains to A.Y. 1974-75 and since then the law has changed by omission of Section 34(1).”

2. The Tribunal by its impugned judgment allowed the Appeal of the Revenue in respect of the afore-mentioned grounds by relying on its judgment



dated 31.1.2007 for assessment year 2000-01 passed in ITA No. 1063/Del/2004.

3. In view of the fact that by our judgment dated 1.9.2008 we have sustained the judgment of the Tribunal dated 31.1.2007 passed in ITA No. 1063/Del/2004, the present Appeal has to be dismissed. It is ordered accordingly.

RAJIV SHAKDHER, J

BADAR DURREZ AHMED, J

September 01, 2008

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