



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

% Judgment delivered on: 07.04.2010

+ **ITA 347/2010**

**THE COMMISSIONER OF INCOME TAX** ... Appellant

- versus -

**M/S PODDAR PIGMENTS LIMITED** ... Respondent

**Advocates who appeared in this case:**

For the Appellant : Ms Sonia Mathur with Mr Sumit Kumar Singh

For the Respondent : None

**CORAM:-**

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

**HON'BLE MR JUSTICE V.K. JAIN**

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

**BADAR DURREZ AHMED, J (ORAL)**

1. The present appeal filed by the revenue is directed against the order dated 05.12.2008 passed by the Income-tax Appellate Tribunal in respect of the assessment year 2002-03.

2. In re-assessment proceedings, the Assessing Officer had disallowed the bad debts as also deduction under Section 80 IB of the Income-tax Act, 1961 (hereinafter referred to as 'the said Act') in respect of



(Appeals) allowed the appeal filed by the assessee and held against the revenue. Being aggrieved by the order passed by the Commissioner of Income-tax (Appeals), the revenue filed an appeal being ITA No.4003/Del/2007 before the Income-tax Appellate Tribunal, which, by the impugned order, has dismissed the said appeal. The tribunal came to the conclusion that the bad debts issue had already been considered in the original proceedings under Section 143(3) and, therefore, the same could not be reopened in reassessment proceedings. We find no infirmity in the view taken by the Tribunal on this aspect of the matter.

3. As regards the second issue, which pertains to deduction under Section 80 IB of the said Act, the Tribunal held that the interest income received on delayed realisation of sale proceeds took the character of sale proceeds and, after placing reliance on the decision of the Madras High court in the case of *Commissioner of Income-tax v. Indomatsushita Co. Ltd*: 286 ITR 201, held that the said interest income could be excluded from the purview of deduction under Section 80 IB of the said Act. We find that this issue of interest received from trade debtors had been considered by this court in the case of *CIT v. Advance Detergents Ltd* [ITA No.248/2009, decided on 30.11.2009]. This court, in *Advance Detergents (supra)*, placed reliance on a decision of the Gujarat High Court in the case of *Nirma Industries Ltd v. Deputy Commissioner of Income-tax*: 283 ITR 402 (Guj). This court also considered several other decisions of the other High Courts. They are:-



- (i) *Phatela Cotgin Industries (P) Ltd. v. Commissioner of Income-tax: 303 ITR 411 (P&H);*
- (ii) *Commissioner of Income-tax v. Flender Macneill Gears Ltd: 150 ITR 83 (Cal);*
- (iii) *Tata Sponge Iron Ltd v. Commissioner of Income-tax: 292 ITR 175 (Orissa);* and
- (iv) *Commissioner of Income-tax v. Indo Matsushita Carbon Co. Ltd: 286 ITR 201 (Mad).*

4. The court also considered the decision of the Supreme Court in the case of *Liberty India v. Commissioner of Income-tax: 317 ITR 218 (SC)* and came to the conclusion that the view taken by the Gujarat High Court and other High Courts on the question of interest paid on delayed payment is the appropriate view. The Gujarat High Court was of the view that interest on delayed payment was nothing but a higher sale price which is the converse situation to offering of cash discount and thus the transaction remains the same and there is no distinction as to the source.

5. Considered from this point of view, interest becomes part of the sale price and, therefore, would be clearly derived from the sales made and was not divorced therefrom. Consequently, it was held that such interest would be the direct result of the sale of goods and the income would definitely fall within the expression “derived from” the business of industrial undertaking as appearing in Section 80 IB of the said Act.

6. Following the said decisions, we find that the view taken by the Tribunal, although it has placed reliance only on the decision of the Madras



7. No substantial question of law arises for our consideration. The appeal is dismissed.

**BADAR DURREZ AHMED, J**

**V.K. JAIN, J**

**APRIL 07, 2010**

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