



THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 03.05.2010

+ **ITA 368/2010**

COMMISSIONER OF INCOME TAX ... Appellant

- versus -

RAMSONS ORGANICS LTD ... Respondent

Advocates who appeared in this case:-

For the Appellant : Ms Prem Lata Bansal with Ms Anshul Sharma
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 only issue, which the revenue seeks to raise before us, is with regard to the cutting and processing of stone, marble, granite etc. and as to whether such cutting and processing amounts to manufacture or production so as to be eligible for deduction under Section 10 B of the Income Tax Act, 1961 (hereinafter referred to as 'the said Act').

2. The present appeal arises out of the order dated 09.04.2009 passed by the Income Tax Appellate Tribunal in ITA No. 2085/Del/2008 relating to the assessment year 2005-2006.



3. The Assessing Officer had deleted the deduction under Section 10B by holding that cutting and processing of stone, marble, granite etc. did not amount to manufacture or production. However, the Commissioner of Income Tax (Appeals) deleted the said disallowance and the same was confirmed by the Income Tax Appellate Tribunal. In doing so, the Tribunal followed the assessee's own case which had been decided by the Tribunal by an order dated 29.08.2008 in respect of assessment years 2003-2004 and 2004-2005. The findings recorded by the Tribunal in the order dated 29.08.2008 for the earlier assessment years were that the assessee was primarily purchasing raw stone blocks of sandstone, marble, granite etc. and then cutting the same into desired thickness after calibration. The sliced stone blocks were then put through various processes to give it the required polished surface, design, water absorption resistance, quality etc. The end result were tiles of various dimensions and designs and these tiles were used for various purposes, such as flooring, wall tiles, kitchen tops, table tops etc.. The Tribunal held that these multiple uses of the tiles produced by the assessee could not have been done by solely using the main raw material which was nothing but solid blocks of sandstone, marble or granite. It was also noticed as a fact that the end product of the assessee was a product which was commercially distinct from the primary raw material and was the result of the activity conducted by the assessee. The Tribunal also noted that the term "production" was wider than "manufacture" and even if it were to be assumed that the assessee was not engaged in a manufacturing



processes employed by the assessee were carried out by highly skilled and specialized workmen on the raw material and the price of the end product was many times more than that of the raw material. Consequently, it was found as a fact that the assessee was engaged in the process of production of the said tiles.

4. In respect of the present year also, the Income Tax Appellate Tribunal followed its earlier decision of the assessment years 2003-2004 and 2004-2005. We are also informed that appeals preferred against the order passed in respect of the earlier assessment years have also been dismissed by this Court. We see no reason to take a different view.

The present appeal is also dismissed.

BADAR DURREZ AHMED, J

V.K. JAIN, J

**MAY 03, 2010
SR**