

IN THE HIGH COURT OF DELHI AT NEW DELHI

SUBJECT : INCOME TAX ACT

Judgment delivered on: 02.12.2008

ITA 1253/2008

ULTIMATE FASHION MAKER LTD ... Appellant

- versus

COMMISSIONER OF INCOME TAX ... Respondent

Advocates who appeared in this case:

For the Appellant : Mr O.P. Sapra with Mr Sandeep Sapra

For the Respondent : Ms Prem Lata Bansal with Mr Mohan Prasad Gupta
and Ms Anshul Sharma

CORAM:-

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE RAJIV SHAKDHER

BADAR DURREZ AHMED, J (ORAL)

1. This appeal is directed against the order dated 26.10.2007 passed by the Income-tax Appellate Tribunal in ITA No.2556/Del/2005 pertaining to the assessment year 2001-02. The learned counsel for the appellant / assessee has proposed three questions as substantial questions of law which, according to him, require consideration of this court. The questions as proposed are as under:- '1. Whether on the facts and circumstances of the case and in law, the Income-tax Appellate Tribunal was justified in holding that the appellant was not entitled to deduction under Section 80 IB of the

Income-tax Act, 1961 on the duty drawback amounting to Rs 2,58,06,330/- ‘
2. Whether on the facts and circumstances of the case and in law, the Income-tax Appellate Tribunal was justified in holding that the appellant was not entitled to deductions under Section 80 IB of the said Act on interest earned on FDRs of Rs 82,370/- ‘
3. Whether on the facts and circumstances of the case and in law, the Income-tax Appellate Tribunal was justified in holding that the appellant was not entitled to deduction under Section 80 HHC of the said Act on the interest earned on FDRs amounting to Rs 82,370/- ‘

2. Insofar as the proposed question No.1 is concerned, the counsel for the appellant as well as the counsel for the respondent / revenue agree that the same stands covered in favour of the assessee by virtue of the decision of this court in Commissioner of Income-tax v. Eltek SGS Pvt Ltd: 300 ITR 6 (Del.) as also in the case of Commissioner of Income-tax v. M/s Dharam Pal Prem Chand Limited: ITA 1441/2006 decided on 27.11.2008. Consequently, insofar as the first question is concerned, we allow the appeal of the assessee on that question holding in favour of the assessee in view of the aforesaid decisions.

3. As regards the other two questions, we do not find any infirmity in the order passed by the tribunal. In any event, no substantial question of law arises with regard to the proposed question Nos. 2 and 3. We may note that insofar as the proposed question No.3 is concerned, the same also stands covered in favour of the revenue by virtue of this court's decision in Commissioner of Income-tax v. Shri Ram Honda Power Equipment: 289 ITR 475. The tribunal has followed the said decision.

4. Nothing further survives in this appeal. The same stands disposed of.

Sd/-
BADAR DURREZ AHMED, J

Sd/-
RAJIV SHAKDHER, J