

*** HIGH COURT OF DELHI : NEW DELHI**

+ ITA 83/2008

**% Judgment reserved on: 26.08.2008
Judgment delivered on: 27.11.2008**

**COMMISSIONER OF INCOME TAX DELHI-IV Appellant
Through : Ms. Prem Lata
Bansal, Advocate**

Versus

**DHARAM PAL PREM CHAND LTD. Respondent
Through : Mr.B.Gupta &
Mr.R.K.Chaufila,
Advocates**

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') preferred by the Revenue against judgment dated 19.1.2007 passed by the Income Tax Appellate Tribunal (hereinafter referred to in short as the 'Tribunal') in ITA No. 3905/Del/2004, in respect of, the assessment year 2001-02.

1.1 The issue in the appeal pertains to allowance of deduction under Section 80-IB of the Act on an income which, according to the Revenue, arose to the respondent/assessee from its industrial undertaking located in Agartala unit, due to refund of excise duty amounting to Rs 24,87,81,499/- and not by way of a profit derived from 'any business' of the said industrial undertaking.

2. The aforesaid issue had come up for consideration before the Tribunal in the preceding assessment year i.e., 2000-01 in ITA No. 4031/Del/2003. The Tribunal, by an order dated 31.1.2006 had dismissed the appeal of the Revenue. The Tribunal, in assessment year, under consideration in the present appeal i.e., assessment year 2001-02, followed its own order passed in assessment year 2000-01. Resultantly, the Tribunal dismissed the appeal of the Revenue based on its order passed in the preceding year.

3. Against the order dated 31.1.2006 the Revenue had preferred an appeal being Appeal No. 1441/2006 to this Court. By an order passed today, in ITA No. 1441/2006, we have dismissed the appeal of the Revenue. Consequently, the present appeal is dismissed.

RAJIV SHAKDHER, J

November 27, 2008
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BADAR DURREZ AHMED, J.