
(2002) 06 GUJ CK 0015

Gujarat High Court

Case No: Income-tax Reference No. 185 of 1988

Commissioner of
Income Tax

APPELLANT

Vs

Gordhanbhai Jethabhai
Tobacco Industries P.
Ltd.

RESPONDENT

Date of Decision: June 26, 2002

Acts Referred:

- Income Tax Act, 1961 - Section 80J

Citation: (2002) 177 CTR 339 : (2002) 258 ITR 727

Hon'ble Judges: M.S. Shah, J; K.A. Puj, J

Bench: Division Bench

Advocate: B.B. Naik, for the Appellant; None, for the Respondent

Judgement

M.S. Shah, J.

In this reference at the instance of the Revenue, the following questions are referred for our opinion for the relevant assessment years as mentioned at the outset :

Assessment years 1981-82, 1982-83 and 1983-84 :

"(1) Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in coming to the conclusion that the assessee-company was engaged in manufacturing and processing activities and was, therefore, an industrial company ?"

Assessment year 1981-82 :

"(2) Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in coming to the conclusion that the assessee-company was entitled to relief u/s 80J of the Income Tax Act, 1961 ?"

We have heard Mr. B.B. Naik, the learned counsel for the Revenue. Though served, none appears for the respondent-assessee.

As far as the first question is concerned, there is no dispute about the fact that the assessee's business consists of crushing large tobacco leaves and cutting into smaller pieces, sieving them, i.e., after removing the dust and unwanted stems from the tobacco leaves, selling them to bidi manufacturers. In connection with another assessee carrying on the same business (Ashwinkumar Gordhanbhai and Bros. (P.) Ltd.), this court decided in [Commissioner of Income Tax Vs. Ashwinkumar Gordhanbhai and Bros. Pvt. Ltd.](#), that the aforesaid business involves manufacturing or processing of goods and the assessee is, therefore, an industrial company.

Following the aforesaid decision, our answer to the first question is in the affirmative, i.e., in favour of the assessee and against the Revenue.

Coming to the second question, the Tribunal confirmed the order of the Commissioner (Appeals) who had based his decision in favour of the assessee for granting the relief u/s 80J of the Income Tax Act, 1961, for the assessment year 1981-82 on the basis of his decision, i.e., the appellate order for the assessment year 1980-81. The Tribunal found that there was no distinguishing feature and, therefore, the view of the Commissioner for the assessment year 1981-82 was also required to be confirmed. Apart from the aforesaid aspect, it appears to us that the question sought to be raised before us in respect of the relief u/s 80J merely involves an amount of Rs. 16,054 and the question whether the assessee is or is not employing more than 20 workers in his processing unit as envisaged u/s 80J(4)(iv) involves a disputed question of fact on which the Commissioner (Appeals) and the Tribunal have given concurrent findings in favour of the assessee.

In view of the above discussion, our answer to the second question is also in the affirmative, i.e., in favour of the assessee and against the Revenue.

The reference, accordingly, stands disposed of with no order as to costs.