

Down Town Hospital Ltd. Vs. Cit

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Court : Supreme Court of India

Decided On : Mar-01-2007

Judge : S.H. Kapadia and; B. Sudershan Reddy, JJ.

Appellant : Down Town Hospital Ltd.

Respondent : Cit

Judgement :

ORDER

1. A short question which arises for determination in this civil appeal is whether the appellant-hospital is an industrial undertaking entitled to the benefit of deduction under Section 80HH of the Income Tax Act, 1961. In this appeal we are concerned with the assessment year 1994-95.

2. The appellant-assessee is a hospital having made investment in plant and machinery. It operates a nursing home in Guwahati. As stated above, the assessee claimed deduction under Section 80HH for the assessment year 1994-95. Vide assessment order dated 5-3-1997, the assessing officer (assessing officer) held that the assessee was not an industrial undertaking, it was, therefore, not eligible for deduction and, consequently, the assessee's claim for deduction stood disallowed.

3. Aggrieved by the said order dated 5-5-1997, the matter was carried in appeal to the Commissioner (Appeals). Vide order dated 8-5-1998, the Commissioner

(Appeals) held that in view of two decisions of two separate High Courts, namely, the Rajasthan High Court and the Kerala High Court the assessee-hospital was an industrial undertaking entitled to deduction under Section 80HH. The above two decisions are reported in : (1997) 225 ITR 178 (Raj) in the case of CIT v. Trinity Hospital. The second judgment of the Kerala High Court is reported in : [1997]225ITR845(Ker) : (1997) 225 ITR 845 in the case of CIT v. Upasana Hospital.

4. Our attention is also invited to the judgment of the Guwahati High Court in the case of CIT v. Down Town Hospital P. Ltd. reported in : (2004) 267 ITR 439.

5. In order to constitute an industrial undertaking, be it under Section 32A or under Section 80HH, the important criteria to be applied by the assessing officer is to identify the item in question, the process undertaken by it and the resultant output. For example, if the item is a data processing machine/computer, the question as to whether the print out from that computer is as a result of manufacture is one of the tests to be applied in judging whether the undertaking which buys this article is an industrial undertaking or not. Unfortunately, in the present case there is no identification of the items installed in the hospital by the Tribunal and, therefore, it is not possible for this Court to express any opinion as to whether the assessee was entitled to deduction under Section 80HH of the Income Tax Act.

6. For the aforesaid reasons, the impugned order of the Guwahati High Court is set aside. The matter is remitted to the Tribunal for deciding the case de novo in accordance with law. Although the impugned order is concerning assessment year 1994-95, the point involved is an important question as far as the assessee-hospital is concerned since it arises in the subsequent assessment years.

7. Accordingly, the appeal is allowed with no order as to costs.