
(1991) 09 CAL CK 0022

In the Calcutta High Court

Case No : Income-tax Reference No. 171 of 1987

Appeejay Pvt. Ltd.

APPELLANT

Vs

Commissioner of Income Tax

RESPONDENT

Date of Decision : 10-09-1991

Acts Referred:

Income Tax Act, 1961 — Section 32A, 80J, 80J(4)

Citation : (1994) 120 CTR 27 : (1994) 46 ECC 180 : (1994) 206 ITR 367 :
(1994) 77 TAXMAN 208

Hon'ble Judges : Shyamal Kumar Sen, J;Ajit K. Sengupta, J

Bench : Division Bench

Judgement

Shyamal Kumar Sen, J.—On an application u/s 256(1) of the Income Tax Act, 1961 (hereinafter referred to "said Act"), the Tribunal has referred to this court the following question of law :

"Whether, on the facts and in the circumstances of the case, the assessee could be said to be manufacturing or producing articles within the meaning of Section 80J(4)(iii) of the Income Tax Act, 1961, so that it shall be entitled to the relief envisaged under that section ?"

2. The facts, inter alia, are that the assessee is a limited company deriving income from business and other sources. The assessment year involved is 1980-81. The nature of the business carried on by the assessee which is relevant for the purpose of this reference was to buy different types of tea from the market, blend them in different proportions and sell the tea so blended in the market. The case of the assessee before the Income Tax Officer was that it was engaged in the manufacture or production of articles within the meaning of Section 80J(4)(iii) and so it was entitled to the relief envisaged in Section 80J of the Act. The Income Tax Officer declined to grant this relief on the ground that the assessee was not an industrial undertaking manufacturing or producing any article as it was engaged only in the blending of different types of tea and selling the tea so blended. He also mentioned that it was not possible to determine the

computation period as envisaged under Explanation 2 to Section 80J(1A)(II). Hence, he did not give any relief u/s 80J of the Act to the assessee and made the assessment accordingly after getting the approval of the Inspecting Assistant Commissioner u/s 144B of the Act on a total income of Rs. 5,46,240 on March 31, 1984.

3. The assessee appealed to the Commissioner of Income Tax (Appeals) and contended that the assessee's claim for relief u/s 80J of the Act should have been allowed. The Commissioner of Income Tax (Appeals) agreed with the contention of the assessee and held that the assessee-company was an industrial undertaking engaged in the manufacture or production of articles so that it is entitled to relief u/s 80J of the Act. He directed the Income Tax Officer to look into the assessee's computation and allow the admissible relief in respect of the tea blending and packing unit in accordance with the provisions of Section 80J of the Act.

4. The Department appealed to the Tribunal and contended that the Commissioner of Income Tax (Appeals) erred in holding that the blending of tea amounted to manufacture of articles and in that view of the matter, holding that the assessee is entitled to the deduction envisaged u/s 80J.

5. The Tribunal, however, followed the decision in the case of Nilgiri Ceylon Tea Supplying Co. Vs. The State of Bombay, and G.A. Renderian Ltd. Vs. Commissioner of Income Tax, .

6. The Tribunal, however, held that the business of purchasing tea of different qualities and selling them after mixing has been held to be an activity of processing, and not an activity of manufacture. The Tribunal also held that the assessee was not entitled to relief u/s 80J of the Act as it was not an industrial undertaking which manufactures or produces articles and so it did not fulfil the conditions laid down in Section 80J(4)(iii) of the Act.

7. Being aggrieved, the assessee made a reference application u/s 256(1) of the Act whereupon the aforesaid question was referred to this court.

8. The learned advocate for the assessee submitted that the process employed by mixing and/or blending tea of different brands or categories and making the different mixtures for marketing is manufacture.

9. He has further submitted that any act required to make goods marketable must form a part of manufacture and any raw material or any material used for the same would be a component part for the end product.

10. In support of his contention, it has further been submitted that "tea" appears as item No. (26) in the list of articles and things of the Fifth Schedule for the purpose of claiming deduction of development rebate u/s 33 of the said Act. A deduction by way of development rebate shall be allowed u/s 33(1)(a) of the said Act and a specified sum on percentage basis in terms of Clause (b) is to be allowed. Development rebate shall be allowed at the rate in respect of machinery

or plant installed for the purposes of business of construction, manufacture or production of any one or more of the articles or things specified in the list in the Fifth Schedule. Therefore, an amount at the rate specified in Section 33(1)(b)(B) (i) of the said Act is to be allowed in respect of machinery and plant installed for the purpose of manufacture or production of "tea" (item No. (26) of the Fifth Schedule). In order to claim deduction by way of development rebate the machinery and plant installed for the purpose of manufacture or production of tea is eligible for deduction as tea is an article or thing specified in the list in the Fifth Schedule to the said Act. "Tea" has not been defined but it is approved by Schedule V as a manufactured article or thing. Blended tea is a tea mixture of a different kind and quality according to a formula evolved by them, there was plainly and indubitably processing of the different brands of tea because these new brands of tea which come into existence are a new product or new article as manufactured or produced by the industrial undertaking. The process by which tea is blended after manufacture and comes into the category of new mixture tea is a production or manufacture and is a commercially new and distinct commodity.

11. The learned advocate relied upon the following decisions :

- (1) Chrestien Mica Industries Ltd. v. State of Bihar [1961] 12 STC 150 (SC).
- (2) Nilgiri Ceylon Tea Supplying Co. Vs. The State of Bombay,
- (3) Chowgule and Co. Pvt. Ltd. and Another Vs. Union of India (UOI) and Others,
- (4) Badrinarayan Vs. State of M.P. and Others,
- (5) Tarai Development Corporation Vs. Commissioner of Income Tax,
- (6) Commissioner of Income Tax Vs. J.B. Kharwar and Sons,
- (7) Brooke Bond India Ltd. v. Union of India [1984] Tax LR 2593 (Cal).
- (8) G.A. Renderian Ltd. Vs. Commissioner of Income Tax,
- (9) East India Cotton Mfg. Co. (P.) Ltd. v. Assessing Authority-cum-Excise and Taxation Officer [1972] 30 STC 489 (P & H).
- (10) Commissioner of Income Tax Vs. Union Carbide India Ltd.,
- (11) North Bengal Stores Ltd. v. Member, Board of Revenue [1938] 1 STC 157 (Cal).
- (12) COLLECTOR OF CENTRAL EXCISE, CALCUTTA-II Vs. EASTEND PAPER INDUSTRIES LTD. COLLECTOR OF CENTRAL EXCISE, BHUBANESHWAR v. ORIENT PAPER MILLS AND OTHERS.,
- (13) Commissioner of Income Tax Vs. U.P. State Agro Industrial Corporation (No. 1),
- (14) Addl. Commissioner of Income Tax Vs. A. Mukherjee and Co. (P.) Ltd.,

(15) Commissioner of Income Tax Vs. Radha Nagar Cold Storage (P.) Ltd.,

(16) Commissioner of Income Tax Vs. S. Warriam Singh Cold Stores,

12. The learned advocate for the Revenue, on the other hand, submitted that the Tribunal is right in its interpretation of Section 80J of the Act and in distinguishing the processing of goods from the manufacture of an article.

(a) It has further been submitted on behalf of the Revenue that the question was whether the assessee is engaged in the processing of goods.

He has further submitted that the assessee was not manufacturing or producing any article but was only buying tea from the market, mixing it and selling it in the market. The input of the assessee's business was tea and the output of the business also remains tea.

(b) Section 32A or 80J of the Act does not speak of processing of goods. Instead, the said sections speak of manufacturing or producing of an article.

(c) The case relied on by the assessee, namely, Commissioner of Income Tax Vs. Radha Nagar Cold Storage (P.) Ltd., refers to processing of goods.

(d) In the case of Commissioner of Income Tax Vs. Hindusthan Metal Refining Works (P.) Ltd., it is observed that the words "manufacture" and "production" apply to a case which brings into existence something different from its components, whereas, in this case, the thing produced by the assessee is tea and the end product sold by the assessee is also tea.

(e) Item No. (26) of the Fifth Schedule of the Income Tax Act speaks of tea and not processing of tea.

13. It has been contended on behalf of the Revenue that, in the instant case, the assessee merely mixes and blends tea and sells it in the market. Therefore, in this case, processing of tea does not involve manufacture of any article or thing. The input and the output of the assessee's business remain tea. It has been submitted that the Tribunal is right in holding that the assessee does not manufacture or produce any article or thing to be entitled to relief u/s 80) of the Income Tax Act, 1961, and it has been submitted that the question referred may be answered in the negative and in favour of the Revenue.

14. We have considered the submissions of the parties and decision cited from the Bar.

15. In the case of Chrestien Mica Industries Ltd. v. State of Bihar [1961] 12 STC 150 (SC), it was held that the assessee was carrying on its business of mica mining operations by which crude mica is taken out of the mine and processed into split mica which is a commercial commodity. The question was whether the process which is used by the appellant would fall within the meaning of the words "produced or manufactured in Bihar" so as to attract the newly added proviso to Section 2(g) of the Bihar Sales Tax Act, 1947, as amended by the

Bihar Act, 1949, for the purpose of levy of sales tax, The Supreme Court held that the process of mining mica is a process of production within the meaning of Section 2(g) of the Bihar Sales Tax Act, 1947. The Supreme Court observed that neither the word "production" nor the word "manufacture" is defined in the Bihar Sales Tax Act but, according to the Oxford English Dictionary, "production" means, amongst other things, that which is produced ; a thing that results from any action, process, or effort, a product; a product of human activity or effort. The Supreme Court, therefore, observed that the mica as processed would fall within the dictionary meaning of the word "production".

16. In the case of Nilgiri Ceylon Tea Supplying Co. Vs. The State of Bombay, , it was held that tea blending was neither processing nor alteration in any manner of the bulk diverse brands of tea purchased by the assessee and mixed the brands of tea so purchased and sold the tea as tea mixture. Although, in the preparation of the tea mixture which was marketed, there might be some skill involved, that could not be regarded as processing within the meaning of the proviso to Section 8(a) of the Bombay Sales Tax Act, 1953. In that case, the applicant duly claimed a deduction from the turnover of the sales of goods as a registered dealer but the deduction was not allowed by the authorities in view of the proviso "that the goods have not been processed or altered in any manner after such purchase". It was found in that case that the applicant prepared new blends by mixing different varieties of tea purchased by it and sold such new blends of tea. It was the case of the Department that the mixing or blending of different varieties of tea should not be regarded as "processing". The Bombay High Court was called upon to decide the question as to whether there had been a processing or alteration in any manner of the different brands or varieties of tea purchased by the assessee. The Bombay High Court was of the view that there has been nothing but a manual application of energy to the different quantities of tea purchased by the assessees in certain proportion so as to evolve a mixture of tea which was sold as tea mixture of the assessee. There is not even application of mechanical force so as to subject the commodity to a process, manufacture, development or preparation. The commodity has remained in the same condition. It is true that in the preparation of the tea mixture which is marketed, there may be some skill involved but that cannot be regarded as processing within the meaning of the proviso to the said Bombay Sales Tax Act. It was further observed that in the preparation of the tea mixture it cannot be said that there is any alteration in the goods. Undoubtedly, by mixing the different varieties of tea purchased by the assessees there resulted a mixture in which the individuality of the components was obscured but that is not alteration and as such there is neither processing nor alteration in any manner of the goods purchased by the assessees.

17. In the case of Chowgule and Co. Pvt. Ltd. and Another Vs. Union of India (UOI) and Others, , it was held that the blending of different qualities of ore possessing differing chemical and physical composition so as to produce ore of the contractual specification could not be said to involve the process of

manufacture, since the ore that was produced could not be regarded as a commercially new and distinct commodity from the ore of different specifications blended together. What was produced as a result of blending was commercially the same article, viz., ore, though with different specifications than the ore which was blended and it could not be said that any process of manufacture was involved in the blending of the ore ; but that the blending of ore in the course of loading through the mechanical ore handling plant amounted to "processing" of the ore within the meaning of Section 8(5)(b) of the Central Sales Tax Act and Rule 13 of the Central Sales Tax (Registration and Turnover) Rules, 1957, and the mechanical ore handling plant fell within the description of "machinery, plant, equipment" used in the processing of ore for sale. In that case, the assessee was carrying on the business of mining iron ore and selling it in the export market after dressing, washing, screening and blending it. The assessee made an application to the Sales Tax Officer for inclusion of 36 items of goods in the certificate of registration on the ground that these items of goods were being purchased by it for use in mining ore and processing it for sale in the export market, and hence they were goods falling within Section 8(3)(b) and Rule 13. The Supreme Court decided the question as to whether the blending of ore while loading it in the ship by means of the mechanical ore handling plant constituted manufacture or processing of ore for sale within the meaning of Section 8(3)(b) and Rule 13 of the Rules. In deciding the said question, the Supreme Court considered the judgment of the Bombay High Court in Nilgiri Ceylon Tea Supplying Co. v. State of Bombay [1959] 10 STC 500.

18. The Supreme Court, inter alia, held as follows :

"(i) When different brands of tea were mixed by the assessees as in Nilgiri Ceylon Tea Supplying Co. Vs. The State of Bombay, for the purpose of producing a tea mixture of a different kind and quality according to a formula evolved by them, there was plainly and indubitably processing of the different brands of tea, because these brands of tea experienced, as a result of mixing, a qualitative change, in that the tea mixture which came into existence was of a different quality and flavour than the different brands of the tea which went into the mixture;

(ii) There are, it is true, some observations in the judgment of the Bombay High Court which seem to suggest that if instead of manual application of energy in mixing the different brands of tea, there had been application of mechanical force in producing the tea mixture, the court might have come to a different conclusion and these observations were relied upon by the assessee, since, in the present case, the blending was done by application of mechanical force, but that is not the correct test to be applied for the purpose of determining whether there is "processing";

(iii) The question is not whether there is any manual application of energy or there is application of mechanical force. Whatever be the means employed for the purpose of carrying out the operation it is the effect of the operation on the

commodity that is material for the purpose of determining whether the operation constitutes "processing".

19. Therefore, the Supreme Court, in construing the expression "processing", allowed the appeal of the assessee holding, inter alia, that where any commodity is subject to a process or treatment with a view to its "development or preparation for the market" it would amount to processing of the commodity within the meaning of the Central Sales Tax Act, 1956. The Supreme Court, in the said judgment, did not consider the expression "manufacture" since the question was decided only on the expression "processing". However, considering the judgment of the Bombay High Court in the case of Nilgiri Tea Co. [1959] 10 STC 500 the Supreme Court observed that, for the purpose of producing a tea mixture of a different kind and quality according to a formula evolved by them, there was plainly and indubitably processing of the different brands of tea, because these brands of tea experienced, as a result of mixing, a qualitative change, in that the tea mixture which came into existence was of a different quality and flavour from the different brands of tea which went into the mixture. Following the said judgment of the Supreme Court in the case of Chowgule and Co, Pvt, Ltd. v. Union of India [1981] 47 STC 124 the Madhya Pradesh High Court in the case of Badrinarayan v. State of Madhya Pradesh [1988] 70 STC 12 held that the process of blending of tea leaves amounts to manufacture and the petitioner is engaged in the production of an article which is a commercially new and distinct commodity after processing comes into existence.

20. In the case of Tarai Development Corporation Vs. Commissioner of Income Tax, , it was held that Section 33 and the Fifth Schedule and Section 80B and the Sixth Schedule, treat processed seeds as an article obtained by the process of manufacture or production and as such it will be safe to infer that the Legislature did not exclude processed seed from the category of manufactured or produced article for purposes of Section 80J.

21. In the case of Commissioner of Income Tax Vs. J.B. Kharwar and Sons, in considering the expressions "manufactures" or "produces" occurring in Clause (iii) of Sub-section (4) of Section 80J, it was held that when the assessee subjects grey cloth to the process of dyeing and printing, it manufactures or produces an article which is distinct from the grey cloth which is used as a raw material.

22. In the case of Brooke Bond India Ltd. v. Union of India [1984] Tax LR 2593 in considering the levability of excise duty over the tea manufactured in gardens and produced by the assessee, viz., package tea, it was held that package tea is produced out of tea already manufactured in the garden. The process by which tea is packed after manufacture and comes into the category of package tea will be deemed to have been considered by the Legislature to amount, by itself, to a production or manufacture which make the article excisable to duty.

23. While considering the expression "manufacture", it was held that package tea

is the manufactured goods as the articles themselves prepared are the result of the process of manufacture and the net result of the process of manufacture is the production of articles in some form which is envisaged as goods to be subjected to excise duty.

24. In the case of *G.A. Renderian Ltd. Vs. Commissioner of Income Tax*, , while considering the claim of the assessee for treating it as an "industrial company" within the meaning of Section 2(7)(c) of the Finance Act, 1978, for allowing the benefit of concessional rate of tax, it was held that blending of tea amounts to processing and as such the assessee was an industrial company in terms of Section 2(7)(c) of the Finance Act, 1978.

25. The Calcutta High Court considered that, as there is no specific or separate definition of the expression "processing" or the expression "manufacturing" although both the expressions appear in Section 2(7)(c) of the Finance Act, 1978, the Tribunal was in error in observing that the end result is tea having a particular blend and no commercially new or different article is produced by this process.

26. In the case of *East India Cotton Manufacturing Co. Pvt. Ltd. v. Assessing Authority-cum-Excise and Taxation Officer* [1972] 30 STC 489 (P & H), it was held that sizing, bleaching or dyeing of raw cloth turns it into a different marketable commodity and, as such, amounts to "manufacture of a commercially new product". The said view has been approved by the Supreme Court in the case of *Empire Industries Limited and Others Vs. Union of India and Others*, . The Supreme Court observed that the word "produced" is used in juxtaposition with the word "manufactured". Consequently, it would appear to contemplate some expenditure of human skill and labour in bringing the goods concerned into the condition which would attract duty. It was not required that the goods should be manufactured in the sense that raw materials should be used to turn out something altogether different. If this aspect of the matter is kept in mind, then expenditure of human skill and material have been used in the processing of fabrics and it may not be that the raw material was first transformed but, over the transformed material, further transformation was done by human labour and skill making this fit for human consumption.

27. In the case of *Commissioner of Income Tax Vs. Union Carbide India Ltd.*, it was held that the material produced, i.e., the shrimps caught from the deep sea, were converted into frozen fish and fish products. The operations consisted of cleaning, peeling, packing and freezing the shrimps without which the same were not marketable and as a result of such processing, a new commercial product came into existence and, therefore, the processed fish and fish products were the result of production or manufacture and the assessee was an industrial undertaking within the meaning of Section 80J of the said Act.

28. In the case of *North Bengal Stores Ltd. v. Member, Board of Revenue* [1938] 1 STC 157 (Cal) it was held that the process of dispensing is carried out for the

purpose of producing the contract goods. When dispensing has taken place, but not before, the chemist has the goods with which to supply his customers and which he has agreed to sell to them. The resultant mixtures, after dispensing prescriptions, are the goods sold by a dispensing chemist to his customers. Since it is the production of goods for the purpose of selling to customers, the chemist who dispenses prescriptions thereby produces goods for sale.

29. In the case of COLLECTOR OF CENTRAL EXCISE, CALCUTTA-II Vs. EASTEND PAPER INDUSTRIES LTD. COLLECTOR OF CENTRAL EXCISE, BHUBANESHWAR v. ORIENT PAPER MILLS AND OTHERS., it was held that manufacture is a process or activity which brings into existence new, identifiable and distinct goods. Goods are identifiable articles known in the market as goods and marketed or marketable the market as such. Anything required to make the goods marketable must form part of the manufacture and any raw material or any materials used for the same would be a component part of the end product.

30. In the case of Commissioner of Income Tax Vs. U.P. State Agro Industrial Corporation (No. 1), , a similar view was taken regarding "process" and "manufacture".

31. In the case of Addl. Commissioner of Income Tax Vs. A. Mukherjee and Co. (P.) Ltd., it was held that preservation of goods, namely, potatoes, in cold storage amounts to processing and it cannot be said to be manufacture as it is doing a specific act to the raw materials.

32. In the case of Commissioner of Income Tax Vs. Radha Nagar Cold Storage (P.) Ltd., , the question as to whether the cold storage is an industrial company within the meaning of the relevant Finance Act was considered. It was held that the cold storage is a plant for the purpose of preserving goods, namely, raw materials, vegetables, potatoes, etc., which, due to operation of the cold storage, remain unchanged. Such process cannot be said to be manufacture.

33. In the case of Commissioner of Income Tax Vs. S. Warriam Singh Cold Stores, it was held that the cold storage is an industrial undertaking for manufacturing of goods and, therefore, machinery and plant installed for the purposes of business of cold storage are entitled to investment allowance as it produces article or thing.

34. It appears to us that, in the facts of the instant case, the assessee carries on business in buying different types of tea from the market, blends them in different proportions and thereafter sells the tea in the market. The assessee has claimed relief u/s 80J of the Income Tax Act on the basis that it is engaged in the manufacture and production of an article within the meaning of Section 80J(4)(iii) of" the Income Tax Act, 1961. Section 80J(4)(iii) provides as follows ;

"Section 80J(4)(iii) it manufactures or produces articles, or operates one or more cold storage plant or plants, in any part of India, and has begun or begins to manufacture or produce articles or to operate such plant or plants, at any time

within the period of thirty-three years next following the 1st day of April, 1948, or such further period as the Central Government may, by notification in the Official Gazette, specify with reference to any particular industrial undertaking ;"

35. It appears that the said section applies to any industrial undertaking which fulfils certain conditions, namely, that it manufactures or produces articles, etc. It appears to us that the Tribunal was correct in holding that, in the instant case, the assessee is not entitled to any relief u/s 80J of the Income Tax Act, as it is not an industrial undertaking which manufactures or produces any article since the assessee is engaged only in blending of tea, which may amount to processing but not manufacture or production of an article, within the meaning of Section 32A or Section 80J of the Income Tax Act.

36. In our opinion, the Tribunal is justified in its interpretation of Section 80J of the Act and in distinguishing processing of goods from manufacture of an article.

37. In the cases cited, the question was whether the assessee was engaged in the processing of goods, whereas in the instant case, the question is whether the relief sought for u/s 80J of the Act requires manufacture or production of an article since the assessee was not manufacturing or producing any article but was only buying tea from the market, mixing them and selling them in the market. The input of the assessee's business was tea and the output of the business both remain tea. Both Sections 32A and 80J of the Act refer to manufacturing or producing of an article and do not have anything to do with processing of goods,

38. It appears to us that the words "manufacture" and "production" apply to a case which brings into existence something different from its components. In this case, however, the thing produced by the assessee is tea and the end product sold by the assessee is also tea.

39. Item No. (26) of the Fifth Schedule of the Income Tax Act also speaks of tea and not processing of tea.

40. In the case of Commissioner of Income Tax Vs. Radha Nagar Cold Storage (P.) Ltd., , this court has distinguished between "manufacture" and "processing of goods" and observed at page 69 of the said report as follows :

"The Legislature has advisedly used different expressions, namely, manufacture, processing or mining. Therefore, it is apparent that the Legislature was not treating the manufacture of goods as the same as the processing of goods. This differentiation must be kept in mind. ... It is well-settled by several decisions that manufacture implies a transformation or an alteration of goods."

41. In the case of Commissioner of Income Tax Vs. Hindusthan Metal Refining Works (P.) Ltd., , this court, while holding that iron and iron sheets do not amount to manufacture or production of an article or thing observed that "manufacture" or "production" applies to a case which brings into existence an article which is different from its components.

42. The same view was also taken in the case of Commissioner of Income Tax, Bombay City I Vs. Tata Locomotive and Engineering Co. Ltd., . "Manufacture" has been held to mean production of an article for use from raw, semi-raw or prepared materials by giving these materials new form, quantities, properties or combination, whether by hand, labour or machinery.

43. The Supreme Court in the case of Collector of Central Excise, Madras Vs. Kutty Flush Doors and Furniture Co. (P) Ltd., , observed that "manufacture" implies a change but every change is not manufacture. And yet every change in an article is the result of treatment, labour and manipulation. But something more is necessary and there must be transformation and "a new and different article must emerge having a distinct name, character or use. It has been held that conversion of timber log by sawing them into sizes and dried timber did not amount to manufacture. The essence of a manufacturing process is the conversion of raw material into an entirely new commodity or new thing. Manufacture involves bringing into existence of a new product, a product which is of a different chemical composition or whose integral structure is different from the raw materials ; processing on the other hand is doing a specific act to something for changing its shape or size, etc.

44. The same view was also taken in the case of Singh Engineering Works Pvt. Ltd. Vs. Commissioner of Income Tax, . In the instant case, the assessee merely mixes and blends tea and sells them in the market. Therefore, in this case, processing of tea does not involve manufacture of any article or thing. The input and the output of the assessee's business remain tea. Hence, it is submitted that the Tribunal is right in holding that the assessee does not manufacture or produce any article or thing to be entitled to relief u/s 80J of the Income Tax Act, 1961. It is, therefore, submitted that the question referred may be answered in the negative and in favour of the Revenue.

45. Accordingly, in our opinion, the decision of the Tribunal does not call for any interference by this court.

46. In the facts and circumstances of the case and on a true and proper interpretation of Section 80J of the Income Tax Act, 1961, the blending of different kinds of tea carried on by the assessee does not constitute manufacture or production of articles or things within the meaning of Section 80) of the Income Tax Act, 1961, and the Tribunal was justified in law in not allowing relief u/s 80) of the Income Tax Act, 1961.

47. The question is, therefore, answered in the affirmative and in favour of the Revenue.

48. There will be no order as to costs.

Ajit K. Sengupta, J.

49. I agree.