(2000) 11 KAR CK 0088

In the Karnataka High Court

Case No : Income Tax A. No. 16 of 1999

Commissioner of Income Tax APPELLANT

Vs

Darshak Ltd. RESPONDENT

Date of Decision : 09-11-2000

Acts Referred:
Income Tax Act, 1961 — Section 260 A, 80 I

Citation : (2001) 165 CTR 17 : (2001) 247 ITR 489

Hon'ble Judges : Ashok Bhan, J;A.V. Sreenivasa Reddy, J

Bench : Division Bench

Advocate : M.V. Seshachala, for the Appellant; K.R. Prasad, for the Respondent

Judgement

Ashok Bhan, J.—The Commissioner of Income Tax, Karnataka-1 (hereinafter referred to as "the Revenue"), has preferred this appeal u/s 260A of the Income Tax Act, 1961 (for short "the Act"), against the order passed by the Income Tax Appellate Tribunal (for short "the Tribunal"), dated October 30, 1998, relating to the assessment year 1987-88, raising the following question of law arising from the order of the Tribunal :

"Whether the assessee is entitled to relief u/s 80-I of the Income Tax Act for etching certain prints on glass which does not involve the activity of manufacturing or processing of an article or thing ?"

2. The respondent-assesses (for short, "the assessee) is a company engaged in decorative printing of glassware. For the assessment year 1987-88, the assessee claimed deduction u/s 80-I of the Act. The claim of the assessee was that decorative printing of glassware involved the manufacture or production of an article or thing, and was, therefore, entitled to deduction of tax u/s 80-I of the Act. The Assessing Officer accepted the contention of the assessee and granted the claim. The Commissioner of Income Tax invoked his revisional powers u/s 263 of the Act and issued suo motu notice to the assessee and reversed the order of the Assessing Officer, after providing an opportunity to the assessee.

The Commissioner revised the order of the Assessing Officer and held that the assessee only etched certain prints on the glass which did not involve any process of manufacture or production of an article or thing. Consequently, the Commissioner withdrew the deduction granted u/s 80-I of the Act passed by the Assessing Officer .

3. The assessee being aggrieved against the revisional order passed by the Commissioner, preferred an appeal before the Tribunal. The Tribunal reversed the finding recorded by the revisional authority and confirmed the deduction granted by the Assessing Officer. It was held that decorating with prints on the plain glass would amount to manufacture or production of an article or thing. The assessee was held entitled to the benefit of deduction of tax u/s 80-I of the Act.

4. In these circumstances, the appeal has been filed raising the question of law which has been set out in the earlier part of the judgment.

5. The assessee had filed an annexure before the Tribunal showing the processing involved in the production of the end-product. The same has been referred to by the Tribunal in para. 11 of the order, but the same was not elaborately referred to. A copy of the same has been produced before us as well. According to the assessee, it receives plain glassware in the form of tumblers and bottles for soft drinks and others. They are cleaned with water and are decorated on screen printing machines which are automatic as well as semi-automatic. In the case of semi-automatic machines, the cleaned articles are placed on the machine by workers, while in the case of automatic machines, the articles are automatically transferred to the machines. The machines are fitted with stainless steel wire mesh cloth on which the designs are photographically exposed as per the requirements. The printing materials used for design are different coloured verifiable enamels. This material is placed in the screen and the temperature of 50 degrees centigrade is maintained by the transformer. The articles are placed under the screen and the printing material seeps through the screen on the articles under the pressure of a moving brush. The articles acquire the design as per the design on the stainless steel wire mesh screen. The design may be of one, two or three colours as per the requirements. Thereafter, these articles are manually placed in the annealing chamber (baking chamber). The temperature in the chamber is raised from room temperature to about 590 degrees centigrade and then gradually cooled down to room temperature. This manufacturing process takes about two and a half hours. Because of this, the design with colours becomes fused and integrated into the glass and forms a part of the glass, which cannot be removed.

6. The Supreme Court in Empire Industries Limited and Others Vs. Union of India and Others, , has held that "manufacture" would include processes like bleaching, mercerising, dyeing, printing, waterproofing, rubberising, shrink-proofing, grease-resisting, etc. It is clear from the judgment of the Supreme Court that the word "manufacture" is to be understood in a wide sense. Manufacture would employ a change and a transformation. A new and a different

article must emerge having a distinct and different character and use.

7. In the present case, the assessee is transforming the plain glassware into decorative glassware with a process which is irreversible and the end-product is distinct and different in character. It is marketed as a different commodity than plain glass.

8. We agree with the view expressed by the Tribunal that the assessee by decorating with prints on the plain glass was engaged in the manufacture or production of an article or thing, which is quite different and distinct from the plain glassware. The assessee would be entitled to the benefit of Section 80-I of the Act.

9. The question of law raised before us is answered in the affirmative, in favour of the assessee and against the Revenue.