

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B' NEW DELHI**

**BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No. 1296/Del/2018
Assessment Year: 2000-01**

Addl. CIT, Spcl. Range-8,
New Delhi.

vs. SC Johnson Products Pvt. Ltd.,
(formerly known as Karamchand
Appliances Pvt. Ltd.), Block Market
G.K.-II, New Delhi.

PAN : AAACK1065G
(Appellant)

(Respondent)

Appellant by : Sh. Gayasuddin Ansari, Sr. DR
Respondent by: Sh. K.M. Gupta, Advocate &
Ms. Shruti Khimta, A.R.

Date of hearing: 13/09/2021

Date of order : 13/09/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the order dated 26.12.2017 passed by the Commissioner of Income Tax (Appeals)-28, New Delhi ("Ld. CIT(A)") in the cases of SC Johnson Products Pvt. Ltd. ("the assessee") for the assessment year 2000-01, Revenue preferred this appeal.

2. Brief facts of the case are that the assessee, earlier known as Karamchand Appliances Pvt. Ltd., was engaged in the business of manufacture and sale of liquid mosquito destroyer apparatus and bottled liquid mosquito repellents with the brand name "All Out". During the

financial year relevant to the assessment year 2000-2001, the assessee conducted its business through two units located at District Solan (H.P.) and from such operations, incurred loss of Rs.1,37,96,323/- from Unit –I and profit of Rs.19,59,74,392/- from Unit-II. For the assessment year 2000-01, they have filed their return of income on 30.11.2000 declaring nil income after claiming deduction u/s. 80IB and 80HHC of the Income-tax Act, 1961 (“the Act” for short) in respect of profits of Unit-II, but restricted the claim to the gross total income of the assessee in accordance with the provisions of section 80A(2) of the Act. By order dated 28.03.2002 passed u/s. 143(3) of the Act, learned Assessing Officer accepted the same.

3. Subsequently, learned Assessing Officer proposed rectification u/s. 154 of the Act, but after considering the submissions of the assessee, he dropped the same by order dated 25.10.2005.

4. Learned Assessing Officer, however, by notice dated 22.08.2005 issued u/s. 148, initiated proceedings u/s. 147 of the Act. Assessee filed the return of income, but approached the Hon’ble High Court of Delhi, challenging the assumption of jurisdiction by the Id. Assessing Officer u/s. 147 of the Act. Assessment u/s. 147/143(3) of the Act was complete by order dated 28.02.2006, restricting the deduction u/s. 80IB to the extent of income from profits and gains of the business as has been prescribed in the provisions of section 80AB of the Act and that interest income of Rs.1,73,09,453/- should have been excluded from gross total income before any claim of deduction u/s. 80IB of the Act. Further, learned Assessing Officer, while computing deduction u/s. 80IB, computed the profits eligible for deduction at Rs.18,21,78,067/- instead of Rs.19,59,74,391/- without giving any reason there for and thereby an amount of Rs.1,73,09,543/- representing interest income was held to be taxable income of the assessee.

5. Aggrieved by such an action of the Id. Assessing Officer, the assessee preferred appeal before the Id. CIT(A). During the course of appeal proceedings, as could be gathered from the impugned order vide paragraph No. 4, the writ petition filed by the assessee, challenging the reopening of the assessment proceedings, was allowed by order dated 16.11.2017, quashing the reassessment notice. Learned CIT(A) while taking note of the order of Hon'ble jurisdictional High Court and while respectfully following the same, allowed the appeal of the assessee.

6. Revenue is, therefore, in appeal before us contending that the Revenue preferred review petition against the orders of Hon'ble High Court and therefore, the issue requires adjudication.

7. It is contended by the Id. AR that the review petition filed by the Revenue was dismissed by order dated 28.09.2018 in *re* 86/2018 by the Hon'ble High Court. She further submitted that Hon'ble Supreme Court by order dated 04.02.2019 also dismissed the SLP filed against the orders of the Delhi High Court. She, therefore, submits that nothing remains to be adjudicated in this matter and the order of the Id. CIT(A) does not suffer any perversity.

8. We have gone through the record in the light of submissions made on either side. It remains an undisputed fact that challenging the notice u/s. 148 of the Act reopening the assessment proceedings, assessee preferred writ petition before the Hon'ble High Court and the Hon'ble High Court vide order dated 16.11.2017 quashed the reassessment notice and the Id. CIT(A) at paragraph No. 4 & 5 of his order noted the observations of the Hon'ble High Court. There is also no dispute that by order dated 28.09.2018, Hon'ble High Court dismissed the review petition of the Revenue and the Hon'ble

Supreme Court dismissed the SLP against order dated 16.11.2017 in WP(C) 422/2006 passed by Hon'ble Delhi High Court.

9. It is, therefore, clear that the quashing of the notice of re-assessment attained finality. Since the Id. CIT(A) is bound to follow, as he did in this case, the orders of the higher forum, it cannot be said that the findings of the Id. CIT(A) are illegal or irregular. We are also bound by the orders of the Hon'ble High Court. So while respectfully following the order of Hon'ble High court in WP(C) 422/2016, we find that the grounds of appeal are devoid of merits and accordingly, we dismiss the same.

10. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on this the 13th day of September, 2021.

(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

Dated: 13/09/2021

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(K. NARSIMHA CHARY)
JUDICIAL MEMBER