IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.327 OF 2004

ABG Heavy Industries Ltd., Mumbai .. Appellant
V/s
ACIT, Circle 3(1), Mumbai .. Respondent

Mr.S.M.Shah i/by M/s.Mulla & Mulla for the Appellant.

CORAM: S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATE : 12.01.2005.

P.C.:

1. Heard the learned Counsel for the Appellant. Appeal is admitted on the following substantial questions of law:-

i) Whether on the facts & in circumstances of the case, the Tribunal misdirected itself in law in rewriting Section 35D by supplying or reading into Section 35D the requirement that the Assessee in order to be eligible for deduction under Section 35D must primarily and fundamentally be a manufacturer or producer of goods?

ii) If the answer to the first substantial question of law is in the negative, whether on the facts and in the circumstances of the case and in law, the Tribunal was right and correct in denying the Appellant the deduction under Section 35D on the footing that the Appellant does not manufacture or produce goods or article or thing?

iii) Whether on the facts and circumstances of the Appellant's case and in law, the AO justified in exacting the Appellant with interest under Section 234B of Rs.2,94,384/- when the conditions precedent engrafted in Section 209 were not satisfied in the Appellant's case?

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