

C.A.No. 7584 OF 1997

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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IN THE SUPREME COURT OF INDIA@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPEAL NO. 7584 OF 1997@@
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M/s. Indian PoultryAppellant(s)

versus

Commissioner of Income Tax ...Respondent(s)

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The three questions which the High Court answered against the assessee read thus:

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"(i) Whether on facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee, being not an Industrial Undertaking, it is not entitled to deduction u/s 80 I of the Income Tax Act, 1961?

(ii) Whether on facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee is not entitled to deduction u/s 80 HH and 80 I of the Income Tax Act, 1961, as an Industrial Undertaking?

(iii) Whether on facts and in the circumstances of the case, the Tribunal was right in law in not following the decision of Hon. Andhra Pradesh High Court in the case of Venkateshwara Hatchery P.Ltd. reported in 174-II R-231 which was favourable to the assessee, particularly when there was no decision of jurisdictional High Court on the point at issue?"

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It is not in dispute that the case is covered against the assessee by the judgment of this Court in C.I.T. vs.@@
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Venkateshwara Hatcheries (P) Ltd. [237 ITR 174]. The further@@
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point that was made by the assessee was that it not only reared the chicken but also dressed them for sale in the market and, therefore, a process of manufacture was carried out. But, it appears that there was no material laid before the Tribunal in this behalf. It is, therefore, not possible to conclude in the

present matter that the dressing of poultry is tantamount to manufacture.

The appeal is dismissed.
No order as to costs.

.SP1

.....J.
(S.P. Bharucha)

.....J.
(N. Santosh Hegde)

.....J.
(Y.K. Sabharwal)

New Delhi,
February 22, 2001.

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ITEM NO.103

COURT NO. 2

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.7584/1997 @@

AA

M/s. Indian Poultry

Appellant (s)

VERSUS

Commissioner of Income Tax
(With appln. for stay and office report)

Respondent (s)

Date : 22/02/2001 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Appellant (s) Mr. B. Sen, Sr.Adv.
Mr. Prakash Shrivastava, Adv.

For Respondent (s) Mr. B.B. Ahuja, Sr.Adv.
Mr. S.W.A. Qadri, Adv.
Mr. B.V.B. Das, Adv.

UPON hearing counsel the Court made the following
O R D E R

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The appeal is dismissed.

No order as to costs.

.SP1

(N. Annapurna)
Court Master

(Shelly Sengupta)
Court Master

(Signed order is placed on the file.)