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ITEM NO.15

COURT NO.1

SECTION IIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).25005/2012

(From the judgement and order dated 20/08/2011 in ITA No.5243/2010 of The
HIGH COURT OF BOMBAY)

COMMISSIONER OF INCOME TAX-8

Petitioner(s)

VERSUS

RECKITT PIRAMAL PVT.LTD.

Respondent(s)

Date: 03/09/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Mr. Gourab Banerji,ASG.

Mr. Imtiaz Ahmed,Adv.

Mr. Sahil Tagotra,Adv.

Ms. Anil Katiyar,Adv.

For Respondent(s) Mr. S. Ganesh,Sr.Adv.

Mr. Mayank Kshirsagar,Adv.

Mr. Ashwani Kumar,Adv.

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

Heard learned counsel on both sides.

Leave granted.

The civil appeal filed by the Department is allowed with
no order as to costs.

[T.I. Rajput]
A.R.-cum-P.S.

[Indu Satija]
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6242 OF 2012
(Arising out of S.L.P. (C) No.25005 of 2012)

Commissioner of Income Tax-8, Mumbai

...Appellant(s)

Versus

Reckitt Piramal Private Limited

...Respondent(s)

O R D E R

Heard learned counsel on both sides.

Leave granted.

This matter pertains to re-opening under Section 263 of the Income Tax Act, 1961, for the Assessment Year 2000-2001.

Vide Order dated 30th July, 2012, this Court raised following specific queries to the assessee:

"Whether the actual conversion factor which the assessee had applied in the matter of conversion of number of cakes into weight was communicated to the Assessing Officer?; and whether the said conversion factor stood applied by the assessee for the last three years?"

A detailed affidavit has been filed by the assessee wherein it is contended that the actual conversion factor was 75 gms. per cake for Dettol Soap Fresh. By mistake, in the Assessment Year 2000-2001, the assessee applied the conversion factor of 250 gms. per cake, which was wrongly taken from liquid soap and applied it as a conversion factor

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for Dettol Soap Fresh. In our view, this question needs to be re-examined. Learned counsel for the Department submits that this aspect was not communicated to the Assessing Officer. We need not go into this controversy of non-communication to the Assessing Officer for the simple reason that we want Income Tax Appellate Tribunal ['ITAT', for short] to re-examine this aspect of conversion factor applicable to soap in the present case. We express no opinion on the merits of the case.

Accordingly, impugned Orders passed by the High Court and ITAT are set aside and the matter is remitted to ITAT for de novo consideration of the above aspect.

The civil appeal filed by the Department is, accordingly, allowed with no order as to costs.

.....CJI.

[S.H. KAPADIA]

.....J.
[A.K. PATNAIK]

New Delhi,
September 03, 2012.
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