

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

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2196 OF 2001

JT. COMMNR. OF INCOME TAX, BHOPAL  
)

Appellant(s)

VERSUS

MANDIDEEP ENG. & PKG. IND. PVT. LTD.  
)

Respondent (s)

(with office report)

Date: 12/04/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ASHOK BHAN

HON'BLE MR. JUSTICE DEVINDER KUMAR JAIN

For Appellant(s)

Mr. Harish Chander, Sr. Adv.

Mr. Mohit Chaudhary, Adv.

Ms. Sushma Suri, Adv.

For Respondent(s)

Mr. S.Bhatnagar, Adv.

Ms. Ruby Singh Ahuja, Adv.

UPON hearing counsel the Court made the following

O R D E R

The Appeal is dismissed. No costs.

(Parveen Kr. Chawla)

(Kanwal Singh )

Court Master

Court Master

[Signed Order is placed on the File]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2196 OF 2001

Jt. Commissioner of Income Tax, Bhopal

..Appellant(s)

VERSUS

Mandideep Eng. & Pkg. Ind. Pvt. Ltd.

.Respondent(s)

O R D E R

The point involved in the present case is: whether Sections 80-HH and 80-I

of the Income Tax Act, 1961 are independent of each other and therefore  
a new

industrial unit can claim deductions under both the sections on the gross total income

independently or that deduction under Section 80-I can be taken on the  
reduced

balance after taking into account the benefit taken under Section 80-HH.

The Madhya Pradesh High Court in J.P.Tobacco Products Pvt. Ltd. vs CIT,

Jabalpur reported in 229 ITR 123 took the view that both the sections are independent

and, therefore, the deductions could be claimed both under Sections 80-HH and 80-I

on the gross total. Against this judgment a Special Leave Petition was filed in this Court which was dismissed on the ground of delay on 21.07.2000 [see 245 ITR 71 (St.)]. The decision in J.P.Tobacco Products Pvt. Ltd. (supra) was followed by the same High Court in the case of CIT vs. Alpine Solvex (P) Ltd. in ITA No. 92 of 1999 decided on May 2, 2000. Special Leave Petition against this decision was dismissed by this Court on 12.01.2001 (see 247 ITR 36 (St.)). This view has been followed repeatedly by different High Courts in a number of cases against which no Special leave Petitions were filed meaning thereby that the department has accepted the view taken in these judgments. See CIT vs. Nima Specific Family Trust reported in 248 ITR 29 (Bom.); CIT vs. Chokshi Contacts P. Ltd. 251 ITR 587(Raj.); CIT vs. Amod Stamping 274 ITR 176(Guj.); CIT vs. Mittal Appliances P. Ltd. 270 ITR 65 (MP); CIT vs. Rochiram & Sons 271 ITR 444 (Raj.); CIT vs. Prakash Chandra Basant Kumar 276 ITR 664 (MP); CIT vs. SB Oil Industries 274 ITR 495 (P&H); CIT vs. M/.s SKG Engineering Pvt. Ltd. 119 (2005) DLT 673; and CIT vs. Lucky Laboratories 200 CTR 305 (All.).

Since the special leave petitions filed against the judgment of the Madhya Pradesh High Court have been dismissed and the department has not filed the special leave petitions against the judgments of different High Courts following the view taken by the Madhya Pradesh High Court, we do not find any merit in this appeal. The department having accepted the view taken in those judgments cannot be permitted to take a contrary view in the present case involving the same point. Accordingly, Civil

Appeal is dismissed. No costs.

.....J.

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[ASHOK BHAN ]

NEW DELHI;  
.....J.

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APRIL 12, 2006.

[DEVINDER KUMAR JAIN]