

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

Petition(s) for Special Leave to Appeal (Civil) No(s).2 0 0 0 5 / 2 0 0 6

(From the judgement and order dated 03/ 0 7 / 2 0 0 6 in TA No. 12 6 5 / 2 0 0 5 of The
HIGH COURT OF GUJ A R A T AT AHM E D A B A D)

E L L O R A T I M E S P V T . L T D .

Petitioner(s)

V E R S U S

DY.COM M R . O F I N C O M E T A X , R A J K O T

Respondent(s)

(With prayer for interim relief and office report)

Date: 09/ 0 7 / 2 0 0 7 This Petition was called on for hearing today.

CORAM :

HON' B L E MR. J U S T I C E A S H O K B H A N
HON' B L E MR. J U S T I C E V . S . S I R P U R K A R

For Petitioner(s) Mr. Bh arg ava V. Desai, Adv.
Mr. Rahul Gupta, Adv.
Ms. Reema Shar m a , Adv.

For Respondent(s) Mr. Mohan P ar a s a r a n , ASG
Mrs. Lak sh m i Iyengar, Adv.
Mr. B.V. Balar a m Das, Adv.

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

Leave granted.
Appeal stands disposed of.

(J.S. R a w at)
AR- cum- P S

(Neeru Bala Vij)
Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 2923 OF 2007
(Arising out of SLP © No. 20005 of 2006)

Ellora Times Pvt. Ltd.

Appellant(s)

Versus

Dy. Commissioner of Income Tax, Rajkot Respondent(s)

ORDER

Leave granted.

The assessee-appellant filed Tax Appeal No. 1265 of 2005
raising the following substantial questions of law said to be arising
from the order of the Tribunal.

- (1) Whether on the facts and in the circumstances of the case, the Tribunal is justified in law in restoring the issue of deduction under section 80IA in respect of export incentive to the file of the Assessing Officer contrary to the ratio laid down by this Hon'ble Court in the case of Harkishan J. Patel at 168 ITR 472?
- (2) Whether on the facts and circumstances of the case the Tribunal has substantially erred in denying deduction under section 80IA of the Act in respect of rent income, profit on trading activities and profit on sale of calculators without assigning any reasons and disregarding the solitary decision of coordinate Bench?
- (3) Whether on the facts and circumstances of the case, the Tribunal is right in law in interpreting Entry No. 22 to Schedule 11 of the Income-tax Act, 1961 for the purpose of denial of deduction under section 80IA (2)(iii) of the Income-tax Act, 1961 in respect of electronic devices with multiple memory and scientific functions?
- (4) Whether on the facts and circumstances of the case, the Tribunal has substantially erred in law in confirming the action of the Assessing Officer for deemed dividend under section 2(22)(e) at Rs.5,11,961/- by holding that the accumulated depreciation as per the Income-tax Act is not to be given effect for determining accumulated profits and the same is to be computed as per Companies Act?

The High Court has refused to entertain the appeal on the ground that no substantial question of law arises from the order of the Tribunal, as claimed by the assessee.

Having heard the counsel for the parties, we are satisfied that the questions raised by the assessee except question no.1, are substantial questions of law which require consideration by the High Court.

Accordingly, the impugned order is set aside in respect of Question Nos. 2, 3 and 4 and the appeal is restored to the file of the High Court for being decided on merits, in accordance with law.

The appeal stands disposed of accordingly.

.....J.
(ASHOK BHAN)

New Delhi;J.
July 09, 2007. (V.S. SIRPURKAR)