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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.4925 OF 2010
WITH
INCOME TAX APPEAL NO.4613 2010

The Commissioner of Income Tax-2, Mumbai

..Appellant.

V/s.

M/s. Kirti Stationers Pvt. Ltd.

..Respondent.

Mr. Vimal Gupta for the appellant.

Mr. S.E. Dastur with Mr. P.J. Pardiwala, senior Advocates with Madhur Agarwal with A.K. Jasani for the respondent.

CORAM : J.P. DEVADHAR AND
K.K. TATED, JJ.

DATED : 26TH SEPTEMBER, 2011

P.C. :-

1. Whether the ITAT was justified in holding that the activity of producing sharpener blades and Glue & lead amounts to manufacture and accordingly the assessee is entitled to deduction under Section 80IA of the Income Tax Act, is the question raised in these appeals.

2. Counsel for the assessee has tendered an affidavit dated 24/9/2011 of the Director of the assessee Company wherein it is stated

that the products in question produced by the assessee constitute manufacture under the Central Excise Act and accordingly the assessee has obtained necessary Central Excise Registration. The fact that the excisable products are exempt from the payment of excise duty cannot be a ground to hold that the products in question are not manufactured by the assessee. In these circumstances, the decision of the ITAT in holding that the products in question are manufactured by the assessee and accordingly entitled to the deduction under Section 80IA of the Income Tax Act, 1961 cannot be faulted. In the result, the appeals are dismissed with no order as to costs.

(K.K. TATED, J.)

(J.P. DEVADHAR, J.)