

PART-HEARD

ITEM NO.1

COURT NO.1

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

Petition(s) for Special Leave to Appeal (Civil) No(s).18012/2009

(From the judgement and order dated 11/11/2008 in ITA No.1259/2007
of The HIGH COURT OF DELHI AT N. DELHI)

C.I.T-XVII, DELHI

Petitioner(s)

VERSUS

SILVER OAK LABORATORIES P.LTD.

Respondent(s)

[For Final Disposal]

[For Directions]

With S.L.P. (C) No.18073 of 2009

(With office report)

[For Final Disposal]

S.L.P. (C) No.19648 of 2009

(With appln.(s) for c/delay in filing SLP, exemption from
filing c/c of the impugned judgement and amendment of cause
title)

[For Final Disposal]

S.L.P. (C) No.19650 of 2009

(With appln.(s) for c/delay in filing SLP and office report)

[For Final Disposal]

S.L.P. (C) No.30252 of 2009

(With office report)

[For Final Disposal]

[For Directions]

S.L.P. (C) No.20907 of 2009

[For Final Disposal]

S.L.P. (C) No.30705 of 2009

(With office report)

[For Final Disposal]

S.L.P. (C) No.20899 of 2009
[For Final Disposal]

S.L.P. (C) No.21066 of 2009

S.L.P. (C) No.21788 of 2009
(With office report)
[For Final Disposal]

S.L.P. (C) No.30853 of 2009
(With office report)
[For Final Disposal]

S.L.P. (C) No.30248 of 2009
(With office report)

Date: 17/08/2010 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Bishwajit Bhattacharya, ASG.

Mr. Arijit Prasad, Adv.
Mr. H.R. Rao, Adv.
Mr. Rohit Sharma, Adv.
Mr. Vikas Malhotra, Adv.
Mr. Ajay Singh, Adv.
Mr. B.V. Balaram Das, Adv.

For Respondent(s) Mr. K.B. Upadhyay, Adv.

Mr. S.K. Divakar, Adv.
Mr. S.R. Setia, Adv.

Mr. K. Sampath, Adv.
Mr. R.K. Raghavan, Adv.
Mr. K.V. Mohan, Adv.

Mr. S. Ganesh, Sr. Adv.
Mr. S. Sukumaran, Adv.
Mr. Anand Sukumar, Adv.
Mr. Bhupesh Kumar, Adv.
Ms. Meera Mathur, Adv.

Mr. Satyen Sethi, Adv.
Mr. Arta Trana Panda, Adv.

Mr. Rameshwar Prasad Goyal,Adv.

Mr. Ajay Vohra,Adv.

Ms. Kavita Jha,Adv.

UPON hearing counsel the Court made the following

O R D E R

On examining the terms and conditions and also on examination of the invoices, purchase orders as well as the challans indicating payment of excise duty, we are of the view that there is no material on record to indicate that the transaction in question is a "contract for carrying out works". Hence, Section 194C of the Income Tax Act, 1961, ['Act', for short] is not attracted. Our attention, in fact, is invited to the amendment in Section 194C of the Act vide Finance (No.2) Act, 2009, with effect from 1st October, 2009, which defines "work" to include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. In fact, it is clarified that the definition of the word "work" will not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person other than such customer. However, this amendment came into force only with effect from 1st October, 2009, which will not apply to the period in question in the present case(s).

For the aforesaid reasons, we find no reasons to interfere with the impugned judgments of the High Court. The special leave petitions are, accordingly, dismissed.

[Alka Dudeja]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar

IN THE HIGH COURT OF DELHI AT NEW DELHI

ITA 1259/2007

11.11.2008

THE COMMISSIONER OF INCOME TAX DELHI XVII

Vs.

SILVER OAK LABORATORIES P.LTD.

Advocate : MR.R.D.JOLLY

Present: Mr R D Jolly for the appellant.

Mr Deepak Chopra for the respondent.

This appeal under Section 260A of the Income Tax Act, 1961 is directed against the order dated 31.1.2007 passed by the Income Tax Appellate Tribunal in ITA 3768/D/2005 pertaining to assessment year 2003-04. We are of the view that the issue sought to be raised by the appellant/revenue in this appeal stands covered by the decision of this Court in the case of CIT vs Reebok India Company in ITA 1209/2006 decided on 31.7.2008. As in the Reebok case, in the present case also, the Tribunal has returned a clear finding that the transactions were in the nature of contracts for sale and not in the nature of works contracts. Consequently, in view of the decision in Reebok India Company (supra), we feel that no substantial question of law arises for our consideration. The appeal is dismissed.

BADAR DURREZ AHMED, J

RAJIV SHAKDHER, J

November 11, 2008