

Court No. - 37

Case :- INCOME TAX APPEAL No. - 700 of 2007

Petitioner :- The Commissioner Of Income Tax

Respondent :- M/S Arpan Fragrances Pvt. Ltd.

Petitioner Counsel :- R.K. Upadhyaya

Hon'ble Yatindra Singh,J.

Hon'ble Prakash Krishna,J.

1. The assessee was assessed for the assessment year 2001-02 on 30th September, 2003. Subsequently, the order was passed by the Commissioner of Income Tax on 11.02.2005 under Section 263 of the Income Tax Act, 1961 (the Act). The assessee filed an appeal against the aforesaid order. This was allowed on 22.09.2006. The Income Tax Department (the Department) filed Income Tax Appeal No. 144 of 2007, which was dismissed on 04.02.2010 by this Court.

2. In the meantime, in pursuance of the order dated 11.02.2005, fresh assessment order under Section 144 of the Act was passed on 20th May, 2005. Aggrieved by the aforesaid order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals). It was allowed on 23rd January, 2007. The Department filed an appeal against the aforesaid order before the Tribunal. This was dismissed on 7th June, 2007, hence the present appeal.

3. The assessment started because of the order dated 11.02.2005 passed under Section 263 of the Act. This order has already been set aside by the Tribunal and the order of the Tribunal has been upheld on 04.02.2010 in Income Tax Appeal No. 144 of 2010.

4. Once the order dated 11.02.2005 under Section 263 of the Act was set aside then the assessment order dated 20.05.2005 and assessment proceedings do not survive.

5. The appeal has no merit. It is dismissed.

Order Date :- 3.12.2010

MK/