IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6914 OF 2009
(Arising out of S.L.P. (C) No.26391 of 2008)

Assistant Commnr of Income Tax, Indore ...Appellant(s)

Versus

M/s. Neo Sack Private Limited ...Respondent(s)

O R D E R

Leave granted.

By consent, the matter called out and taken up for hearing.

In our view, an important question of law arises for interpretation of Section 80IA of the Income Tax Act [for short, “the Act”]. The question, as framed at Page 5 of the special leave petition, reads as under:

> “Whether on the facts and circumstances of the case the learned Courts below were right in holding that the assessee was entitled to the deduction under section 80IA of the Act on the amount of entire eligible income without reducing the amount of export incentive from the same?”

The above question has neither been answered by Income Tax Appellate Tribunal nor by the High Court.

We grant liberty to the appellant herein to move the High Court and raise the issue specifically, particularly in view of the fact that an important question of law on interpretation of Section 80IA of the Act arises for determination.

In case the High Court finds that the answer to the above question needs factual finding(s), it may remit the case to Income Tax Appellate Tribunal for disposal on merits the above question only in accordance with law.

Accordingly, civil appeal stands disposed of.

No order as to costs.

......................J.
[S.H. KAPADIA]

......................J.
[AFTAB ALAM]

New Delhi,
October 09, 2009.

SUPREME COURT OF INDIA
JUDGMENT