M/s. Unicorn Industries v. Principal Commissioner of Income Tax, Kolkata-I

ITA/51/2019, ITA/52/2019, ITA/53/2019, ITA/54/2019, ITA/55/2019, ITA/57/2019

ITA/51/2019, ITA/52/2019, ITA/53/2019, ITA/54/2019, ITA/55/2019, ITA/57/2019 (High Court at Calcutta, 2024-06-26) | 2024-06-26

Tobacco-free pan masala manufactured in the notified Sikkim area qualified under the applicable section 80-IC route.

Income-tax Act,1961: sections 80-IC(2)(a)(i), 80-IC(3)

High Court at Calcutta | 2-judge bench (Division Bench) | Justice Surya Prakash Kesarwani | Justice Rajarshi Bharadwaj

Assessment years: 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13

01 FACTS OF THE CASE

Six appeals concerned AYs 2007-08 through 2012-13. Unicorn's unit in the notified Sikkim industrial area began production on 27 June 2006. Its mouth freshener contained no tobacco or catechu. The Tribunal accepted manufacture but denied deduction by applying schedule restrictions.

Source: PDF pp.1–6

02 DISCUSSION BY THE HON'BLE COURT

The Court distinguished section 80-IC(2)(a), covering qualifying manufacture in notified areas subject to the Thirteenth Schedule exclusions, from clause (b), concerning Fourteenth Schedule articles. It also distinguished Part A for Sikkim from Part B for Himachal Pradesh and Uttaranchal.

Source: PDF pp.10–13, paras 16–18

03 JUDICIAL DECISION

Pan masala was expressly mentioned in Part B but not Part A. The Tribunal could not import that expression into Sikkim's list; the finding that this tobacco-free product was a tobacco product was unsustainable.

Source: PDF pp.13–14, paras 18–19

04 OUTCOME / IN WHOSE FAVOUR

Impugned Tribunal orders set aside; deduction under section 80-IC(2)(a)(i) read with subsection (3) recognised and all six appeals allowed to the extent stated.

Source: PDF p.14, paras 19–20

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Identify the correct eligibility route first: Unicorn relied on its notified location and commencement within the statutory period under clause (a). The Court rejected imposing clause (b)'s positive-list requirement on that route. A comparable analysis should establish the area notification, commencement and product before selecting the schedule; combining conditions from distinct routes can produce an incorrect disallowance. (PDF pp.3–5, 10–13)

State-specific wording and actual ingredients controlled: The decision depends on Part A's language and the undisputed absence of tobacco. The express inclusion of pan masala in Part B did not authorise adding it to Part A. Ingredient and production records therefore remain important; the judgment does not grant identical treatment to tobacco-containing products or units in every State. (PDF pp.4–5, 10, 13–14)

Preserve all six dockets without inventing a universal exemption: The common judgment covers ITA 51, 55, 52, 53, 54 and 57/2019 for AYs 2007-08 through 2012-13 respectively. It establishes entitlement on these facts, not a perpetual industry exemption or a finding that pan masala necessarily satisfies the Fourteenth Schedule. Later commencement dates and other statutory routes require separate examination. (PDF pp.2, 12–14)

Source: PDF pp.3–5, 10–13

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 14-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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