Commissioner of Income Tax v. Yash Pal Garg & Co.

ITR 6/1994

ITR 6/1994 | 2007-04-17

Merger did not bar revision of issues not decided in appeal

263 | 80HHA

High Court of Himachal Pradesh | Shimla | Deepak Gupta | Surinder Singh

Assessment years: 1982-83

01 FACTS OF THE CASE

After appellate relief on certain issues for AY 1982-83, the Commissioner invoked section 263 regarding benefits under section 80 HHA and directed re-examination. The Tribunal cancelled revision on the ground that the assessment had merged with the appellate order.

Source: PDF pp.1–2

02 DISCUSSION BY THE HON'BLE COURT

The Court followed Shri Arbuda Mills,(1998)9 SCC 702, explaining that the retrospective statutory rule extended revision to matters not considered and decided in appeal. The earlier appeal did not bar re-examination of the matters left undecided there.

Source: PDF pp.2–3

03 JUDICIAL DECISION

The reference was answered for Revenue. The Tribunal's order of 7 January 1992 cancelling the section 263 order was set aside and quashed.

Source: PDF p.3

04 OUTCOME / IN WHOSE FAVOUR

Revenue succeeded on the scope of revision despite partial appellate merger. The Court did not make a fresh computation or finally determine the quantum of section 80 HHA benefit in this brief reference.

Source: PDF pp.2–3

05 EXPERT COMMENTS

Test merger issue by issue — The decisive distinction is whether the particular matter was considered and decided in the earlier appeal. The existence of an appeal on some assessment issues did not immunise every other item from revision. A comparison therefore requires the actual grounds and appellate decision, not merely proof that an appeal was filed.

The cited retrospective rule defines this jurisdictional answer — The Court relied on Arbuda Mills and the extension of section 263 to matters not decided in appeal. This reasoning does not authorise reconsideration of issues actually adjudicated in that appeal or dispense with other revision requirements. The note reports the specific merger objection rejected here.

Re-examination is not a quantified withdrawal of deduction — Section 80 HHA formed the background to the Commissioner's direction, but the referred question concerned revision jurisdiction. The High Court removed the Tribunal's cancellation order. It supplied no new amount of allowable deduction or tax demand, so that financial consequence cannot be generated from this source alone.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

Himachal Pradesh High Court judgment; verified source copy

Complete source PDF reviewed: 3 physical pages.

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Sections and disposition are recorded only to the extent stated in this source order.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not 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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