

**SUPREME COURT OF INDIA**

Commissioner of Income Tax

Vs.

B. Mohanachandran Nair

C.A.No.4855 of 2005

(Y. K. Sabharwal and G. P. Mathur JJ.)

08.08.2005

**JUDGMENT**

**Y. K. Sabharwal, J.**

1. Heard learned counsel for the parties.

2. Delay condoned.

3. Leave granted.

4. The only question before the High Court was whether the loss suffered in the export of trading goods can be adjusted against the profit (positive figure) obtained from the export of owned goods (manufactured goods). The High Court, relying upon its earlier decision in the case of *CIT v. T. C. Usha (Smt.)*<sup>1</sup>, answered the question in the negative, i.e., in favour of the assessee and against the Revenue. Aggrieved by the said order, the Revenue is in appeal.

5. This court in *IPCA Laboratory Ltd. v. Deputy CIT* has reversed the view taken by the High Court in the case of *T. C. Usha (Smt.)* 2003 Indlaw KER 127 (Ker) and has held that a plain reading of section 80HHC makes it clear that in arriving at the profits earned from export of both self-manufactured goods and trading goods, the profits and losses in both the trades have to be taken into consideration. If after such adjustments, there is a positive profit, the assessee would be entitled to deduction under section 80HHC(1). If there is a loss, he will not be entitled to any deduction. In this view, we set aside the impugned judgment, allow the appeal and answer the question in the affirmative, i.e., in favour of the Revenue and against the assessee.

No costs.

<sup>1</sup>2003 Indlaw KER 127 (Ker)