

## **Commissioner Of Income-Tax vs H.M.T. Bearings Ltd. on 23 March, 1999**

**Equivalent citations: [2003]263ITR7(SC), (2002)10SCC132, AIR ONLINE 1999 SC 177, 2002 (10) SCC 132, (2004) 179 TAXATION 1, (2003) 263 ITR 7, (2003) 185 CUR TAX REP 35, (2003) 132 TAXMAN 600**

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**Bench: S.P. Bharucha, R.C. Lahoti**

ORDER

S.P. Bharucha, J.

1. We have heard learned Counsel. We find no merit in the appeal. The precise question to be answered, as formulated in the judgment and order under appeal, is whether a return filed and accepted in pursuance of an order made under Section 146, particularly on the ground mentioned in Clause (i) of Sub-section (1) thereof, can be treated as a return filed under Section 139 for the purpose of Section 80; if it is, the losses can be carried forward; if it is not, the losses will not be allowed to be carried forward. The High Court has rightly held that where a best judgment assessment is set aside under Section 146 on the Income-tax Officer being satisfied that the assessee was prevented by sufficient cause from making a return required under Sub-section (2) of Section 139, he naturally has to receive the return filed along with the application under Section 146 or within such time as he may specify. Such return would then be a return filed under Section 139 for the purpose of Section 80 as it then stood. In our view, this conclusion is correct and it requires no interference by this Court.

2. The appeal is dismissed with no order as to costs.