

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
IN THE INCOME TAX APPELLATE TRIBUNAL  
' B' BENCH : CHENNAI

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं श्रीजी. पवन कुमार, न्यायिक सदस्यकेसमक्ष  
**BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER  
AND SHRI G. PAVAN KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1980/Mds/2016  
निर्धारण वर्ष /Assessment year : 2013-2014

The Deputy Commissioner of Income Tax,  
Circle -1,  
Tirupur **Vs.** M/s. Sueera Alloys Global P. Ltd,  
No.315/2, Seembayanallur Village,  
Kandampalayam,  
Avinashi 641 654.  
Coimbatore

**[PAN AAGCS 6735B]**

अपीलार्थी की ओर से/ Appellant by : Shri. Supriyo Pal, JCIT.  
प्रत्यर्थी की ओर से /Respondent by : Shri. M. Narayanan, Addl.  
CIT(Retd)

आयकर अपील सं./I.T.A. No. 1982/Mds/2016  
निर्धारण वर्ष /Assessment year : 2013-2014

The Deputy Commissioner of Income Tax,  
Circle -1,  
Tirupur **Vs.** M/s. Kesharinandan Knit Fabrics  
(P) Ltd,  
174/175, Lingai Gounder Street,  
Tirupur 641 602.

**[PAN AAACK 8625Q]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. Supriyo Pal, JCIT  
प्रत्यर्थी की ओर से /Respondent by : Ms. B. Jaisheila, C.A

सुनवाई की तारीख/Date of Hearing : 29-09-2016  
घोषणा की तारीख /Date of Pronouncement : 30-09-2016

**आदेश / ORDER****PER SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER:**

These appeals filed by the Revenue are directed against the orders of the Id. Commissioner of Income Tax (Appeals), Coimbatore granting the claim for deduction u/s.80IA of the Income Tax Act, 1961 (herein after referred to as 'the Act'), before setting of earlier year's notional losses.

2. Ld. Commissioner of Income Tax (Appeals) had taken a view that unabsorbed depreciation of years, prior to the initial year of preferring a claim under deduction u/s.80IA of the Act was not to be notionally carried forward and set off before granting such deduction. The Id. Commissioner of Income Tax (Appeals) had followed the judgment of Hon'ble Jurisdictional High Court in the case of *M/s. Sri Valayuthasamy Spinning Mills Ltd vs. ACIT 340 ITR 477*. The contention of the Revenue before us is that the assessee had claimed deduction u/s 80IA(4) of the Act without setting off of the depreciation of the said units for the earlier years. As against this, claim of the assessee is that such depreciation loss was already adjusted and therefore, notional loss could not be brought forward and forcibly set off against the profits of the impugned assessment years. We find that the issue raised in these appeals is squarely covered by

the judgment of the Jurisdictional High Court in the case of *Velayudhaswamy Spinning Mills P. Ltd (supra)*. Once earlier losses had been set off against other income, there was no question of notional adjustment of such losses against the profits of a given year as per the above judgment, while working out deduction claimed u/s 80IA of the Act. Since the CIT(A) had followed the judgment of the Jurisdictional Madras High Court, we do not find any reason to interfere with the order of the CIT(A).

**3.** In the result, the appeals of the of the Revenue are dismissed.

Order pronounced on Friday, the 30th day of September, 2016, at Chennai.

**Sd/-**  
(जी. पवन कुमार)  
**(G. PAVAN KUMAR)**  
न्यायिक सदस्य/JUDICIAL MEMBER

**Sd/-**  
(अब्राहम पी. जॉर्ज)  
**(ABRAHAM P. GEORGE)**  
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:30th September, 2016

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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|--------------------------|------------------------------|-------------------------|
| 1. अपीलार्थी/Appellant   | 3. आयकर आयुक्त (अपील)/CIT(A) | 5. विभागीय प्रतिनिधि/DR |
| 2. प्रत्यर्थी/Respondent | 4. आयकर आयुक्त/CIT           | 6. गार्ड फाईल/GF        |