

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्रीएन.आर.एस. गणेशन, न्यायिकसदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.2136/Mds/2016

निर्धारण वर्ष /Assessment Year : 2012-13

The Assistant Commissioner of
Income –Tax,
Circle -2, 121, Sixty Feet Road,
Tirupur – 641 602.

v. M/s. Prabath Mills,
Arul Industrial Estate,
Arulapuram,
Palladam Road,
Tirupur – 641 605.

PAN: AADFP 7442 E

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.2137/Mds/2016

निर्धारण वर्ष /Assessment Year : 2013-14

The Income-tax Officer,
Non- Corporate Ward -4(1),
Coimbatore.

v. M/s.Sivasubramania Textiles,
No.2/1, Chinniyampalayam,
Avinashi Road,
Coimbatore – 641 062.

PAN: AAKFS 4941 G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri A.V.Sreekanth, JCIT

प्रत्यर्थीकीओरसे/Respondent by

: None

सुनवाईकीतारीख/Date of Hearing

: 19.10.2016

घोषणाकीतारीख/Date of Pronouncement

: 25.11.2016

आदेश / O R D E R**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

Both the appeals of the revenue are directed against the respective order of CIT(A) dated 08.04.2016 for the assessment years 2012-13 and 2013-14 respectively. Since common issue arises for consideration in both the appeals, we heard the same together and disposing of the same by this common order.

2. No one appeared for the assessee inspite of service of notice by R.P.A.D. Therefore, we heard the learned representative for the department and proceeded to dispose off the appeal on merit. The only issue arises for consideration is deduction claimed by the assessee under Section 80IA of the Act. In both the appeals, the assessing officer disallowed the claim of the assessee on the ground that the losses and the unabsorbed depreciation allowances cannot be set off against other business income of the assessee. Referring to the judgment of the Madras High Court in Velayudhaswamy Spg.Mills Ltd., the assessing officer found that the revenue has already filed the SLP before the Apex Court. Therefore, it was not followed. This Tribunal is of the considered opinion that the initial assessment year means, the year in which the assessee begins to claim deduction under Section 80IA of the Act. The Madras High Court allowed the claim of the assessee by interpreting Section 80IA (5) of the Act refused to follow the same on the ground that the

revenue has already filed the SLP before the High Court. This Tribunal is of the considered opinion that mere pendency of SLP before the Apex Court cannot be a reason for not following the judgment of the Madras High Court. Moreover, the CBDT instructed its officers to accept the judgment of the Madras High Court and withdraw all the pending appeals. In spite of this instruction, the revenue has filed the present appeals before this Tribunal. Therefore, this Tribunal is of the considered opinion that the CIT(A) rightly allowed the claim of the assessee. This Tribunal do not find any reason to interfere with the order of the lower authority and accordingly, the same is confirmed.

3. In the result, both the appeals of the revenue are dismissed.

Order pronounced on 25th November, 2016 at Chennai.

Sd/-
(डि.एस. सुन्दर सिंह)
(D.S. Sunder Singh)
लेखा सदस्य/Accountant Member

Sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 25th November, 2016.

sp.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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