

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "B", MUMBAI**

**Before Shri Mahavir Singh, Judicial Member, and  
Shri Ashwani Taneja, Accountant Member**

**ITA No.1684/Mum/2014  
Assessment Year: 2010-11**

ITO 8 (1) (2) Mumbai Pin 400020	<b>बनाम/</b> Vs.	BST Textile Mills Pvt. Ltd. 309, 3 <sup>rd</sup> Floor Wodrow Bldg, Vera Desai Mumbai Pin 400053
(Appellant)		(Respondent )
P.A. No.AACCB7130P		

Appellant by	Shri Suman Kumar (DR.)
Respondent by	None
<b>Date of Hearing:</b>	<b>8/3/2017</b>
<b>Date of Order:</b>	<b>16 /03/2017</b>

**आदेश / ORDER**

**Per Ashwani Taneja, A.M:**

This appeal has been filed by the revenue against order of Commissioner of Income Tax (Appeals), Mumbai-21 [in short, 'CIT(A)], dated 13.12.2013 passed against the assessment order u/s-143(3), dated 11.1.2013 for A.Y. 2010-11 on the following grounds.

*"On the facts and in the circumstances of the case and in law, the CIT(A) erred in directing the AO to include interest subsidy of Rs.1,34,45,475 for computing deduction u/s 801C without appreciating that the source of subsidy is the scheme of Government and not the eligible undertaking for being considered for the purpose of deduction u/s 801C.*

*On the facts and in the circumstances of the case and in law, the C1T(A) erred in directing the AO to include interest subsidy for computing deduction u/s 80-IC without appreciating that interest*

*subsidy being a receipt from Government under a scheme cannot be said to be income, the source of which is the industrial undertaking."*

*"On the facts and in the circumstances of the case and in law, the CIT(A) erred in directing the AO to include interest subsidy for computing deduction u/s 801C without considering decisions of (i) the Hon'ble Himachal Pradesh High Court in the case of Supriya Gill Vs UT, 193 Taxmann 12(HP); and (ii) the Hon'ble ITAT, F-Bench, Mumbai, in the case of Unmesh M. Joshi ( ITA No 4287/Mum/2010 dt.23-12-11), on the subject."*

*The appellant prays that the order of the CIT(A) on the above ground be set aside and that of the 1TO/AC/DCIT be restored.*

*The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary."*

*The appellant prays that the order of the CIT(A) on the above ground be set aside and that of the 1TO/AC/DCIT be restored.*

**2.** During the course of hearing, It was submitted at the outset, by the Ld. Counsel of assessee that solitary issue involved in this appeal is with regard to allowability of deduction u/s 801C on the amount of interest subsidy received by assessee during the year, in pursuance to scheme of the Government. It was submitted that this issue is now covered in favour of assessee by the judgment of Hon'ble Supreme Court in the case of CIT Vs. Meghalaya Steels Ltd, therefore, the claim has rightly been allowed by Ld. CIT(A) and his order should be upheld in view of aforesaid judgment of Hon'ble Supreme Court.

**3.** Per contra Ld. DR relied upon the order of the A.O. but he did not make any distinction on law or on facts between the aforesaid judgment of the Hon'ble Supreme Court and facts of the case of assessee.

**4.** We have gone through the orders passed by the lower authorities as well as aforesaid judgment of the Hon'ble Supreme Court. The brief background is that during the year assessee company was engaged in the business of manufacturing of cotton yarn. It had a manufacturing unit at

SIDCUL, Rudrapur, (Uttarakhand) and claimed benefit of deduction u/s 80-IC in the written filed by him.

5. During the course of assessment proceedings it was noted by the A.O. that assessee credited in its profit & loss account various items under the head other income which included TUFs interest subsidy amounting to Rs.1,34,45,475/-. As per Assessing Officer, deduction 80-IC was not allowable on the said amount since this income could not be said to be derived by the undertaking of the assessee. The assessee submitted the nature of the aforesaid interest subsidy as under.

*“Head: Tufs Interest Subsidy (Technology up-gradation fund scheme)*

*Nature: This is in the nature of Interest subsidy bring the part reimbursement made by Ministry of Textile of India, of the interest paid by the assessee to the Banks. As per the scheme of the Ministry of Textile, Government of India, the Assessee Company is entitled to receive part re-imbusement of the interest paid to the banks on loans availed and used for the purpose of business activities carried on by the Assessee. The said amount merely for the purposes of accounting control was accounted for separately by the Assessee company and accordingly shown to the credit of profit & loss account under the head; which in fact is the part reimbursement of expenses incurred by the Assessee on account of interest paid to the Banks and not in the nature of any income earned by the Assessee. Accordingly, the full amount of interest paid to the bank has been debited and shown separately as financial expenses in profit and loss account.*

6. However, AO did not accept the submissions of the assessee and denied the benefit of deduction u/s-80-IC. In appeal before Ld. CIT(A), detailed submissions were made by assessee which have been accepted by Ld. CIT(A) in his order. Relevant part of these submissions is reproduced here under for ready reference:

**Regarding Ground No.5**

*“which is against the disallowance made by the AO in respect of interest reimbursement amounting to 1,34,45,475/- received back by the Assessee from banks under the scheme of the 'Ministry of Textile,*

it was submitted that the said amount is not in the nature of income and is merely re-imburement out of the actual interest first paid by the Assessee to the Banks As per the scheme of the Ministry of Textile, the Assessee is entitled to receive back 5% of the interest actually paid by the Assessee to the Banks That the said reimbursement of interest would only reduce the interest cost of the Assessee already incurred by it and the same cannot be termed as any. income earned by the assessee. That the Ministry has made such mechanism to claim interest reimbursement, whereby the Assessee is first required to pay the amount of interest to the Bank and thereafter receives back 5% reimbursement of such interest paid by it to the Bank. Thus the said receipt of interest reimbursement has direct, live link and first degree nexus with the expenses of Industrial Undertaking and has effect of reducing the operational cost of the Undertaking. The Assessee has, merely for the control purpose, shown the said interest reimbursement separately in credit side of the Profit & Loss Account. I had the Assessee adopted the alternative method of accounting, whereby the reimbursement of expenses are credited to/reduced from the particular expenses head, there would have been no' surplus/credit balance under any accounting head. It was further, submitted that the said method of accounting is recognized metld4 as per the Accounting Standard 12 issued' by the Institute of Chartered Accountants wherein It is categorically, provided that any grant or subsidy received against any expenses can be reduced from the said expenses and accordingly the said expenses may be, shown as net of such grants. The documents showing that the amount was towards the part reimbursement of interest already paid by the Assessee, with calculation of such claims were filed. It is a well settled law that government grants/ subsidy are reimbursement of actual cost 'and expenses incurred by the Assessee and the same do not tantamount to any income earned by the Assessee. As a matter of fact, the receipts of such subsidies are deduction in operational cost of the Assessee and thereby have dirt and first degree nexus with the profits. derived by the undertaking. Reliance was placed in the case of. CIT Vs. 1. Meghalaya Steels Ltd. 2. Pride Coke Pvt. Ltd. [2013] 356 ITR 235 [Gauhati] That the case law cited, and relied upon by the AO being CIT vs Gheria Oil.Grarnudyog Workers Welfare Association 330 ITR

*117 (2011) has also been referred to and considered while settling the above ratio in the said judgment reported in [2013] 356 ITR 235 supra. Further, the said case law has been given on the basis of interpretation on the said issue by the Hon'ble Supreme Court in the case of Sahney Steel and Press Works Ltd v CIT [1997] 228 ITR 253 (SC); CIT v Rajararn Maize Products [2011] 251 ITR 427 (SC) and CIT v Eastern Electro Chemical Industries [1999]. Thus that the judgment cited in 356 ITR 235 relied, upon by the Assessee as supra has considered all earlier judgments and given the finality on the issue involved. It was, therefore, submitted that the amount of "interest.-reimbursement" amounting to Rs.1,34,45,475/- should not be excluded while amounting deduction u/s 80-IC and the same be allowed to the Assessee in full".*

7. Ld. CIT(A) considered the submissions of the assessee and found that this issue was covered in favour of the assessee in view of the judgments of Hon'ble Gauhati High Court in the case of CIT Vs. Meghalaya Steels Vs. and Pride Coke Pvt. Ltd. 356 ITR 235 (Gauhati), and thus he allowed the claim of the assessee.
8. During the course of hearing before us, it has been brought to our notice that judgment in the case of Meghalaya Steels Ltd. has been affirmed by Hon'ble Supreme Court reported at 383 ITR 217.
9. We have gone through the judgment of the Hon'ble Supreme Court. It has been held by the Hon'ble Supreme Court that if, cash assistance received or receivable against export schemes are included as being income under the head 'Profit & Gains of business or profession', it is obvious that subsidies which go to reimbursement of cost in the production of goods of a particular business would also have to be included under the head 'profit & gains of business or profession', and not under the head of income from other sources. The facts of the case before us are that the impugned amount was received back by the assessee from banks under the scheme of Ministry of Textile in respect of reimbursement out of the actual interest

first paid to the assessee to the banks. These facts have not been disputed by the Ld. DR before us. Under these circumstances, we find that judgment of Hon'ble Supreme Court in the case of Meghalaya Steels Ltd. (supra) squarely covers the issues involved. Thus, in view of the aforesaid judgment we find no need for making interference in the order passed by Ld. CIT(A) wherein claim made by the assessee was allowed by Ld. CIT(A) after considering the ratio of decision of Hon'ble Gauhati High Court in the aforesaid case which has been confirmed by the Hon'ble Supreme Court, as stated above. Thus, order of CIT(A) is upheld and grounds raised by the revenue in its appeal are dismissed.

**10.** As a result, appeal filed by the revenue is dismissed.

Order was pronounced in the open court at the conclusion of hearing.

**Sd/-**  
**(MAHAVIR SINGH)**  
Judicial Member

**Sd/-**  
**(ASHWANI TANEJA)**  
Accountant Member

मुंबई Mumbai; दिनांक Dated : 16 .03.2017  
V. P. Singh