

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री चंद्र पूजारी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.574/Mds/2016

निर्धारण वर्ष / Assessment Year : 2011-12

The Deputy Commissioner of  
Income Tax,  
Corporate Circle 6(1),  
Chennai - 600 034.

v. M/s Sambha Publishing Co. Pvt. Ltd.,  
152, Peters Road,  
Chennai - 600 034.

(अपीलार्थी/Appellant)

PAN : AAACS 6646 R

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Jayaraghavan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri S. Sridhar, Advocate

आयकर अपील सं./ITA No.575/Mds/2016

निर्धारण वर्ष / Assessment Year : 2009-10

The Deputy Commissioner of  
Income Tax,  
Corporate Circle 6(1),  
Chennai - 600 034.

v. M/s Shrinivasa Roadways Pvt. Ltd.,  
No.122, Wall Tax Road,  
Chennai - 600 003.

(अपीलार्थी/Appellant)

PAN : AAACS 5063 N

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri Jayaraghavan, JCIT

प्रत्यर्थी की ओर से/Respondent by : None

सुनवाई की तारीख/Date of Hearing : 17.05.2016

घोषणा की तारीख/Date of Pronouncement : 26.05.2016

**आदेश / O R D E R**

**PER N.R.S. GANESAN, JUDICIAL MEMBER:**

Both the appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals) – 15, Chennai, in respect of two different assessees. Since common issue arises for consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. No one appeared for the assessee in I.T.A. No.575/Mds/2016 even though notice of hearing was issued to the assessee.

3. Shri Jayaraghavan, the Ld. Departmental Representative, submitted that the issue arises for consideration is with regard to deduction under Section 80-IA of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. D.R., the CIT(Appeals) in both the appeals allowed the claim of the assessees by following the judgment of Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. v. ACIT (340 ITR 477). According to the Ld. D.R., the Revenue has already filed an appeal before the Apex Court and the same is pending for disposal. Therefore, according to the Ld. D.R.,

the CIT(Appeals) ought not to have allowed the claim of the assessee.

4. We heard Shri S. Sridhar, the Ld.counsel for the assessee in I.T.A. No.574/Mds/2016 also. According to the Ld. counsel, the CIT(Appeals) has followed the binding judgment of jurisdictional High Court, therefore, the CIT(Appeals) has rightly allowed the claim of the assessee by following the judgment of Madras High Court.

5. We have considered the rival submissions on either side and perused the relevant material available on record. As rightly submitted by the Ld. Departmental Representative and the Ld.counsel for the assessee, the CIT(Appeals), by following the judgment of Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. (supra), has allowed the claim of the assessee under Section 80-IA of the Act. The only claim of the Revenue is that an appeal is pending before the Apex Court against the judgment of Madras High Court. Recently, the CBDT has issued a circular accepting the judgment of Madras High Court in Velayudhaswamy Spinning Mills (P) Ltd. (supra) and instructed all its officers not to file any appeal against the order of the CIT(Appeals) wherever the

judgment of Madras High Court is followed. The circular of the CBDT is binding on all the officers of the Department and the judgment of Madras High Court is also binding on the officers of the Department and on this Tribunal. Therefore, this Tribunal do not find any reason to interfere with the orders of the lower authority and accordingly the same are confirmed.

6. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 26<sup>th</sup> May, 2016 at Chennai.

sd/-  
(चंद्र पूजारी)  
(Chandra Poojari)  
लेखा सदस्य/Accountant Member

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

चेन्नई/Chennai,  
दिनांक/Dated, the 26<sup>th</sup> May, 2016.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondents
3. आयकर आयुक्त (अपील)/CIT(A)-15, Chennai-34
4. आयकर आयुक्त /CIT-6, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.