

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

श्री अब्राहम पी. जॉर्ज, लेखा सदस्य एवं श्रीजी. पवन कुमार, न्यायिकसदस्यकेसमक्ष

**BEFORE SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER
AND SHRI G. PAVAN KUMAR, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A. No. 1646/Mds/2016

निर्धारण वर्ष /Assessment year : 2013-2014

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs.

M/s. Viking Knitters,
No.4, VOC Nagar, Ist Street,
Gandhi Nagar PO,
Tirupur 641 603.

(अपीलार्थी/Appellant)

**[PAN AABFV 8542R]
(प्रत्यर्थी/Respondent)**

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.

प्रत्यर्थी की ओर से /Respondent by : Shri. N. Vijaykumar, C.A.

आयकर अपील सं./I.T.A. No. 1647/Mds/2016

निर्धारण वर्ष /Assessment year : 2013-2014

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs.

M/s. Sakthi Murugan Roller
Flour Mills Limited,
SF. No.19/2, Pudupalayam,
Coimbatore Road,
Avinashi 641 654.

[PAN AADCS 0673H]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.

प्रत्यर्थी की ओर से /Respondent by : Shri.G. Baskar, Advocate

आयकर अपील सं./I.T.A. No. 1648 & 1649/Mds/2016
निर्धारण वर्ष /Assessment year : 2012-13 & 2013-2014

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs. M/s. Sakthi Murugan Agro
Foods Ltd,
SF. No.19/2, Pudupalayam,
Coimbatore Road,
Avinashi 641 654.

[PAN AACCS 9473J]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri.G. Baskar, Advocate

आयकर अपील सं./I.T.A. No. 1650/Mds/2016
निर्धारण वर्ष /Assessment year : 2011-2012

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs. M/s. Spictex Cotton Mills (P) Ltd,
No.63-B, P.N. Road,
Tirupur 641 602.

[PAN AADCS 8164R]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri. N. Vijaykumar, C.A.

आयकर अपील सं./I.T.A. No. 1651/Mds/2016
निर्धारण वर्ष /Assessment year : 2012-2013

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs. M/s. Eastman Spinning Mills P. Ltd,
10, 12, 2nd Street,
Kumar Nagar South,
Tirupur 641 603.

[PAN AAACE 4595R]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri. N. Vijaykumar, C.A.

आयकर अपील सं./I.T.A. No. 1652/Mds/2016
निर्धारण वर्ष /Assessment year : 2013-2014

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs. Shri. R. Yuvaraj,
Prop. Maniam Steels,
Old No.104, New NO.344,
Kumaran Road,
Tirupur 641 601.

[PAN AAGPY 6883P]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri. N. Vijaykumar, C.A.

आयकर अपील सं./I.T.A. No. 1653/Mds/2016
निर्धारण वर्ष /Assessment year : 2012-2013

The Deputy Commissioner
of Income Tax,
Circle -1,
Tirupur

Vs. M/s. Armstrong Knitting Mills,
No.61, Samynathapuram,
Anupparpalayam, P.O.
Tirupur 641 652.

[PAN AAFFA 1226P]

अपीलार्थी की ओर से/ Appellant by : Shri. Shiva Srinivas, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri. N. Vijaykumar, C.A.

सुनवाई की तारीख/Date of Hearing : 17-08-2016
घोषणा की तारीख /Date of Pronouncement : 17-08-2016

आदेश / ORDER**PER BENCH:**

These appeals filed by the Revenue are directed against different orders of Commissioner of Income-tax (Appeals)-3 Coimbatore, for the above assessment years passed u/s.143(3) and 250 of the Income Tax Act, 1961 (herein after referred to as 'the Act'). Since the issue in these appeals is common in nature, hence these appeals are combined, heard together, and disposed of by a common order for the sake of convenience. We consider the facts as narrated in ITA 1648/Mds/2016 of assessment year 2012-13 for adjudication.

2. The only issue arises for consideration is with regard to deduction claimed by the assessee under Section 80-IA of the Income Tax Act, 1961 (in short 'the Act') in respect of windmills.

3. There is a delay of 66 days in filing these appeals by the Revenue. At the time of hearing the Id. Departmental Representative has filed an affidavit explaining the reasons for delay and the Id. Authorised Representative has no serious objections for condonation of delay. After hearing the submissions, we are satisfied with sufficient and reasonable cause for filing the appeal belatedly and we therefore condone the delay and admit the appeals.

4. The brief facts of the case are that the assessee company filed return of income for the assessment year 2012-13 on 20.10.2012 admitting total income of ₹95,63,717/-. The case was selected for scrutiny and the assessment was completed by disallowing ₹83,94,831/- under section 80IA of the Act by notionally bringing in and setting off the brought forward loss for determining the profits qualifying for deduction u/s.80IA from the initial assessment year being the year relevant to the financial year in which operations relating to the windmill infrastructure commenced. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

5. On appeal, the Commissioner of Income Tax (Appeals) observed that the issue is covered by the jurisdictional High Court order in the case of *CIT vs. Velayuthasamy Spinning Mills* 231 CTR 368 and 340 ITR 477 and allowed the claim of the assessee. Against Commissioner of Income Tax (Appeals) order, the Revenue assailed an appeal before Tribunal.

6. We heard the rival submissions and perused the material on record. The only contention of the Department before the Tribunal that the Revenue has not accepted the judgment of Madras High Court and an appeal has already been filed along with Special Leave Petition and the same is pending before the Apex Court. This Tribunal is of

the considered opinion that mere pendency of Special Leave Petition before the Apex Court cannot be a reason to take a different view. The judgment of Madras High Court is binding on all the authorities in the State of Tamil Nadu and Union Territory of Pondicherry. Therefore, the Commissioner of Income Tax (Appeals) has rightly allowed the claim of the assessee by following the binding judgment of Madras High Court in *Velayudhaswamy Spinning Mills (P) Ltd (supra)*. Therefore, this Tribunal do not find any infirmity in the order of the Commissioner of Income Tax (Appeals). The appeal of the Revenue is dismissed.

7. Consequently, the appeals of the Revenue in ITA Nos.1646, 1647, 1649, 1650, 1651, 1652 & 1653/Mds/2016 are dismissed.

8. In the result, the appeals of the Department in ITA Nos. 1646 to 1653/Mds/2016 are dismissed.

Order pronounced on Wednesday, the 17th day of August, 2016, at Chennai.

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai

दिनांक/Dated:17th August, 2016

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)5. विभागीय प्रतिनिधि/DR

4. आयकर आयुक्त/CIT

Sd/-

(जी. पवन कुमार)

(G. PAVAN KUMAR)

न्यायिक सदस्य/JUDICIAL MEMBER

6. गार्ड फाईल/GF