

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

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री अब्राहम पी. जॉर्ज, लेखा सदस्य के समक्ष।
[BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI ABRAHAM P. GEORGE, ACCOUNTANT MEMBER]

आयकर अपील सं./I.T.A. No. 1576/Mds/2016
निर्धारण वर्ष /Assessment year : 2004-2005.

The Deputy Commissioner of Income Tax,
Corporate Circle 6(2)
Chennai 600 034. **Vs.** M/s. Sundram Auto Components Ltd,
No.29, Jayalakshmi Estates,
Haddows Road,
Chennai 600 006.

(अपीलार्थी/Appellant) **[PAN AAACS 7027G]**
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Shri. A.V. Sreekanth, IRS, JCIT.
प्रत्यर्थी की ओर से /Respondent by : Shri. R. Vijayaraghavan, Advocate

सुनवाई की तारीख/Date of Hearing : 05-10-2016
घोषणा की तारीख /Date of Pronouncement : 21-10-2016

आदेश / ORDER

PER ABRAHAM P. GEORGE, ACCOUNTANT MEMBER

This appeal of the Revenue is directed against an order dated 10.02.2016 of the Commissioner of Income-tax (Appeals)-15, Chennai.

- 2.** Revenue has filed this appeal with a delay of ten days. Petition for condonation has been filed. Fair reasons have been shown. Delay is condoned. Appeal is admitted.
- 3.** Grievance raised by the Revenue is on the direction of the Id. Commissioner of Income Tax (Appeals) to exclude excise duty, sales tax and scrap sales from total turnover while calculating deduction claimed by the assessee u/s.80HHC of the Income Tax Act, 1961 (herein referred as 'the Act').
- 4.** Ld. Assessing Officer had added excise duty of ₹10,76,34,763/-, sales tax ₹2,96,94,516/- and scrap sales ₹24,48,474/- in the total turnover of the assessee while computing deduction u/s.80HHC of the Act.
- 5.** When assessee moved in appeal before Id. Commissioner of Income Tax (Appeals), the Id. Commissioner of Income Tax (Appeals) relying on the judgments of Apex Court in the case of *CIT vs. Laskhmi Machine Works 290 ITR 667* and *CIT vs. Punjab Stainless Steel Industries 364 ITR 144* directed the Id. Assessing Officer to exclude these amounts from the total turnover while computing the deduction u/s.80HHC of the Act.

6. Now before us, Id. Departmental Representative submitted that Id. Commissioner of Income Tax (Appeals) had relied on a decision of Co-ordinate Bench in the case of M/s. Sundaram Clayton Ltd for giving relief to the assessee. As per Id. Departmental Representative the decision had not reached finality.

7. Per contra, the Id. Authorised Representative strongly supported the orders of the authorities below.

8. We have considered the rival contentions and perused the orders of the authorities below. In so far as excise duty and sales tax are concern, the Hon'ble Apex Court in the case of *Laskhmi Machine Works (supra)* clearly held that excise duty and sales tax were to be excluded from total turnover when working out the deduction available to the assessee u/s.80HHC of the Act. In so for as scrap sales their lordship in the case of *Punjab Stainless Steel Industries (supra)* held that where an assessee was not dealing in scrap but scrap was only what was left from the process of manufacturing, then proceeds of sale of such scrap should not be considered as part of the turnover. We are of the opinion that Id. Commissioner of Income Tax (Appeals) had rightly followed the judgment of Apex Court in the cases

of *Laskhmi Machine Works (supra) and Punjab Stainless Steel Industries(supra)* for giving relief to the assessee. We do not find any reason to interfere.

9. In the result, the appeal of the Revenue is dismissed.

Order pronounced on Friday, the 21st day of October, 2016, at Chennai.

Sd/-

(एन.आर.एस. गणेशन))

(N.R.S. GANESAN)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated:21st October, 2016

KV

Sd/-

(अब्राहम पी. जॉर्ज)

(ABRAHAM P. GEORGE)

लेखा सदस्य/ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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