

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : F : NEW DELHI

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SMT BEENA PILLAI, JUDICIAL MEMBER

ITA No.442/Del/2014
Assessment Year: 2009-10

Quadrant EPP Surlon
Uttranchal (P) Ltd.,
H.No.4, Pocket-1,
Jasola Vihar,
New Delhi.

Vs. ITO,
Ward-14(2),
New Delhi.

PAN: AAACQ0944J

(Appellant)

(Respondent)

Assessee By : Shri Akhilesh Kumar, Advocate
Department By : Shri Atiq Ahmed, Sr. DR

Date of Hearing : 14.11.2017
Date of Pronouncement : 15.11.2017

ORDER

PER R.S. SYAL, VP:

This appeal filed by the assessee is directed against the order passed
by the CIT(A) on 21.11.2013 in relation to the assessment year 2009-10.

2. The only issue raised in this appeal is against the denial of deduction u/s 80IC in respect of four items of income totaling Rs.12,21,572/-, which were classified by the assessee under the head 'Other income.'

3. The facts apropos this issue are that the assessee claimed deduction u/s 80IC. There is no dispute on the otherwise eligibility of deduction to the assessee. The same was also allowed by the Assessing Officer except on four items, namely, Interest on debtors amounting to Rs.5,22,012/-; Foreign exchange fluctuation of Rs.1,94,060/-; Interest subsidy of Rs.2,05,500/-; and Royalty/rent received amounting to Rs.3 lac. The Id. CIT(A) echoed the assessment order on this point. The assessee is in appeal against the denial of deduction on the above referred four items of income.

4. We have heard both the sides and perused the relevant material on record. Sub-section (1) of section 80IC as applicable at the material time reads as under:-

Where the gross total income of an assessee includes any *profits and gains derived by* an undertaking or an *enterprise from any business* referred to in sub-section (2), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing

the total income of the assessee, a deduction from such profits and gains, as specified in sub-section (3).

5. On going through the mandate of sub-section (1), it is mandated that deduction is eligible in respect of profits and gains derived by an undertaking or an enterprise `from any business' referred to under sub-section (2). Language of this section is different from certain other sections which provide for deduction only in respect of 'profits and gains derived from an industrial undertaking.' The essence of section 80IC is that deduction is allowable on profits and gains derived by an enterprise from any eligible business. Such profits and gains from the eligible business do not refer only to the income directly derived from the undertaking. Income from *business* as referred to in the provision encompasses any income emanating from the business carried on by the enterprise. Such income need not necessarily be directly derived from the undertaking. So long as the nexus between the income and the business exists, the income continues to be eligible for deduction u/s 80IC.

6. Coming to the first item of dispute, namely, Interest on debtors amounting to Rs.5,22,012/-, it is seen as an admitted position that this

amount represents interest received from debtors for late payment of sale proceeds. Debtors have obviously arisen from the eligible business of the enterprise. Such interest partakes the character of the sale proceeds to which it relates in so far as the availability of deduction is concerned. The same is, therefore, eligible for deduction as it is income derived from the sale proceeds of the eligible business.

7. Foreign exchange fluctuation of Rs.1,94,060/- is, admittedly, on account of trading transactions. Sale is recorded at the rate of foreign exchange prevalent at the time when exports are made. If, later on, an excess amount is received due to upward revision of foreign exchange rate, such excess amount is nothing, but, part of sale proceeds only, which was earlier recorded at a lower rate in accordance with the foreign exchange rate prevalent at the material time. Thus, foreign exchange fluctuation is very much an item of income derived by the assessee from the business of eligible undertaking. The same is, ergo, held to be eligible for deduction.

8. The next item is Interest subsidy of Rs.2,05,500/-. Nature of income as contended by the assessee before the Id. CIT(A) is that it paid interest

on loans taken for purchase of plant & machinery and, thereafter, government allowed subsidy for payment of such interest.

9. In support of deduction, the Id. AR relied on Circular No.39/2016 which takes cognizance of the Hon'ble Supreme Court judgment in *Meghalaya Steels Ltd. (2016) 383 ITR 217 (SC)* and provides that the subsidy of transport, power and interest given by the government to the industrial undertakings are receipts which have been reimbursed for elements of *costs relating to manufacture/sale of products* and, accordingly, deduction should be allowed on them. In our considered opinion, this Circular does not advance the case of the assessee because it seeks to provide for deduction in respect of subsidies which go to reimbursement of cost in the production of particular business. When we advert to the facts of the instant case, it is found that the instant interest subsidy is in respect of interest '*paid on loans taken for purchase of plant & machinery.*' There being patent difference between the items of subsidy referred to in the Circular and the nature of income earned by the assessee, being, subsidy for interest on loan taken for purchase of plant and machinery, we find the claim of the assessee for deduction wanting on this

item of income. The action of the authorities below in not allowing deduction u/s 80IC on this amount, is approved.

10. The last item is royalty/rent received amounting to Rs.3 lac on which deduction u/s 80IC was not allowed. This item, again, in our considered opinion cannot be considered as 'Profits and gains derived by an enterprise from any business' referred to in sub-section (2). Rental income has no relation with the eligible business. The view of the authorities on this issue is also upheld.

11. In the result, the appeal is partly allowed.

The decision was pronounced in the open court on 15th November, 2017.

Sd/-

[BEENA PILLAI]
JUDICIAL MEMBER

Dated, 15th November, 2017.

dk

Sd/-

[R.S. SYAL]
VICE PRESIDENT

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.