

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "H", MUMBAI

BEFORE SHRI G.S.PANNU, ACCOUNTANT MEMBER
AND
SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No. 2103/Mum/2017
(Assessment Year 2008-09)

The DCIT, Cir.7(3)(2),
Room No.669A,
Aaykar Bhavan,M.K.Road,
Mumbai-400 020

..... Appellant

Vs.

M/s. Prince Pipes & Fittings Pvt. Ltd.
4th Floor, B-Wing, Ruby House,
J.K.Sawant Marg, Dadar (W),
Mumbai -400 028.
PAN:AAACP 2319J

.... Respondent

Appellant by : Shri Ram Tiwari
Respondent by : Ms. Mrugakshi K. Joshi

Date of hearing : 24/08/2017
Date of pronouncement : 10/11/2017

ORDER

PER G.S.PANNU,A.M:

The captioned appeal filed by the Revenue pertaining to assessment year 2008-09 is directed against an order passed by the CIT(A) -13, Mumbai dated 27/12/2016, which in turn arises out of an order passed by the Assessing Officer under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') dated 17/10/2012.

2. In this appeal Revenue has raised the following Grounds of appeal:-

1. "Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) was justified in holding that the different units of machinery installed in the same premises having common power connection and without segregating the input material, labour force, power installations and other amenities, would constitute independent units of industrial undertaking for the purpose of Section 80IA/IB?"

2. "Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was right in placing reliance of order in 1TA No. 3082 & 5488/Mum/2010 dated 9.2.2010 and 5.10.2011 in the assessee's own case when the said ITAT orders are not accepted by the Revenue and challenged before the Hon'ble High Court in ITA no. 1TXA/659/2013 and ITXA/501/2012."

3. Although the Revenue has raised two grounds of appeal, but the solitary issue relates to assessee's claim for deduction under section 80IB of the Act amounting to Rs.2,02,31,199/-.

4. At the time of hearing, it was a common ground between the parties that the claim of the assessee has been allowed by the CIT(A) based on the decisions of the Tribunal in the assessee's own case for assessment years 2006-07 and 2007-08 vide ITA Nos. 3082/Mum/2010 dated 09/02/2010 and ITA No.5488/Mum/2010 dated 05/10/2011 respectively, and that such decisions of the Tribunal continue to hold the field as the same have not been altered by any higher authority, and therefore, the appeal can be disposed-off in the said light.

5. At the time of hearing, the Ld. Representative for the assessee also referred and relied upon the decision of the Tribunal for assessment years 2004-05 and 2005-06 vide ITA Nos.4163-4164/Mum/2008 dated 14/07/2009,+

in support of the claim. So however, in order impart to completeness to the order, the following discussion is relevant.

5.1 The respondent assessee is a company incorporated under the provisions of the Companies Act, 1956 and is inter-alia engaged in the business of manufacturing of PVC Pipes, fittings and valves, etc. In the impugned assessment the Assessing Officer denied the claim of the assessee for deduction under section 80 IB of the Act with respect to the profits of Unit Nos. 2 & 5 on the ground that all the five units of the assessee namely, Unit Nos.1,2,3,4 &5 were in fact liable to be construed as a single unit. The Assessing Officer also noted that the disallowance was in line with the stand of the assessing authorities in the past years. The CIT(A) noted that in the immediately preceding assessment years of 2006-07 and 2007-08, the Tribunal vide its orders dated 09/02/2010(supra) and 05/10/2011(supra) held that all the units were distinct and separate units and profits of the respective units were eligible for the claim of deduction under section 80 IB of the Act. In fact, the relevant extract from the decision of the Tribunal for assessment year 2006-07(supra) has been extracted by the CIT(A) in his order and the relevant discussion shows that the Tribunal based its conclusion on the decision of the Tribunal for assessment years 2004-05 & 2005-06(supra) in the case of the assessee itself.

6. In view of the aforesaid discussion and considering that the precedents relied upon the CIT(A) continue to hold the field, inasmuch as, the same have not been altered by any higher authority, in our view,

the CIT(A) made no mistake in allowing the claim of the assessee, which we hereby affirm.

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

Order pronounced in the open court on 10/11/2017.

Sd/-
(PAWAN SINGH)
JUDICIAL MEMBER

Sd/-
(G.S. PANNU)
ACCOCUNTANT MEMBER

Mumbai, Dated 10/11/2017

Vm, Sr. PS

Copy of the Order forwarded to :

1. The Appellant ,
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai