

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष
BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकरअपीलसं./I.T.A.No. 1693/Mds/2017
(निर्धारणवर्ष / Assessment Year: 2014-15)

Asst. Commissioner of Income Tax, Circle-1, Tuticorin	Vs	M/s. Diamond Shipping Agencies (P) Limited, Diamond House, A-4, World Trade Avenue, Harbour Estate, Tuticorin – 628 004.
		PAN : AAACD6487H
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mrs. S. Vijayaprabha, JCIT
प्रत्यर्थीकीओरसे/Respondent by	:	Ms. S. Sriniranjani, Advocate

सुनवाईकीतारीख/Date of hearing	:	13.09.2017
घोषणाकीतारीख /Date of Pronouncement	:	16.10.2017

आदेश / ORDER

Per A. Mohan Alankamony, AM:-

This appeal filed by the Revenue is directed against the order passed by the learned Commissioner of Income Tax (Appeals)-1, Madurai dated 12.04.2017 in ITA No.0196/2016-17 for the assessment year 2014-15 passed U/s.250(6) r.w.s. 143(3) of the Act.

2. The Revenue has raised several grounds in its appeal, however the crux of the issue is that the Ld.CIT(A) has erred in deleting the disallowance of deduction U/s.80IA(4) of the Act with respect to the business activity of the assessee being developer and operator of Container Freight Station by relying on the decision of the Hon'ble High Court.

3. The brief facts of the case are that the assessee is a company, engaged in the business of shipping & transport, filed its return of income for the assessment year 2014-15 electronically on 27.09.2014 admitting 'Nil' income. The case was selected for scrutiny under CASS and notice U/s.143(2) was issued on 28.08.2015. Thereafter the assessment was completed U/s.143(3) of the Act, wherein the Ld.AO disallowed the claim of deduction U/s.80IA of the Act, in respect of the business of developing and operating container freight station. While doing so, the Ld.AO opined that the decision of the Hon'ble High Court in the case of A.L. Logistics was not acceptable to the Income Tax Department since the department has filed appeal before the Hon'ble Apex court.

4. However on appeal, the Ld.CIT(A) allowed the claim of the assessee by observing as under:-

“I have considered the submissions of the representative. As far as the deduction u/s.80IA is concerned, I accept the plea of the representative that this issue is covered by my appellate orders for assessment years 2012-13 and 2013-14 which have been confirmed by the Hon'ble ITAT. Regarding the binding decision of the jurisdiction High Court, I find that there is merit in the claim of the appellant that the Assessing Officer is bound to follow the jurisdictional High Court decision even if the same is not accepted by the department and further appeal is pending. The Board has issued instructions that the Assessing Officers have to follow the decision of the jurisdictional High Court and note down such cases separately so that whenever the jurisdictional High court's decision is reversed by the Hon'ble Apex court, remedial action is to be taken. The Assessing Officer is not justified in refusing to follow the decision of the jurisdictional High court merely because the appeal is pending before the Apex Court. The action of the Assessing Officer is against the instructions issued by the Board. In view of the above, I direct the Assessing Officer to allow deduction u/s.80IA. The Assessing Officer shall take into account the disallowances/additions if any, which shall have the effect of enhancement of deduction u/s.80IA.”

5. At the outset, we find merit in the order of the Ld.CIT(A). The issue has been held in favour of the assessee by the Hon'ble Jurisdiction Madras High Court. It is pertinent to mention that all the lower judiciary has to necessarily follow the decision of the order of the Hon'ble Jurisdictional High Court, which the Ld.CIT(A)

has adhered to. Therefore we do not find any infirmity in the decision of the Ld.CIT(A). Hence we hereby uphold the same.

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

Order pronounced on the 16th October, 2017 at Chennai.

Sd/-

(धुव्वुरु आर.एल रेड्डी)

(Duvvuru RL Reddy)

न्यायिक सदस्य /Judicial Member

Sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य / Accountant Member

चेन्नई/Chennai,

दिनांक/Dated 16th October, 2017

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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