

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं
श्री ए. मोहन अलंकामणी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2270/Chny/2017

निर्धारण वर्ष / Assessment Year : 2013-14

The Assistant Commissioner of
Income Tax,
Central Circle – 3, Aaykar
Bhavan,
63, Race Course Road,
Coimbatore – 641 018.

(अपीलार्थी/Appellant)

v. M/s GVG Paper Mills Limited,
No.168/2, Sikkandar Batcha
Street,
Gandhi Nagar,
Udumalpet – 642 154.

PAN : AABCG 1438 N

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri B. Sahadevan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri A. Dhananjayan, CA

सुनवाई की तारीख/Date of Hearing : 20.02.2018

घोषणा की तारीख/Date of Pronouncement : 28.02.2018

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) -18, Chennai, dated 09.05.2017 and pertains to assessment year 2013-14.

2. There was a delay of 31 days in filing this appeal by the Revenue. The Revenue has filed a petition for condonation of delay. We have heard the Ld. Departmental Representative and the Ld. representative for the assessee. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. Shri B. Sahadevan, the Ld. Departmental Representative, submitted that the only issue arises for consideration is with regard to the deduction claimed by the assessee under Section 80-IA of the Income-tax Act, 1961 (in short 'the Act') in respect of the profit on the captive consumption of power generated by Turbine Division of the paper mill. According to the Ld. D.R., the electricity generated by the Turbine Division is an incidental mechanism of the paper industry. According to the Ld. D.R., the Turbine Division works only when the steam for paper industry runs. In case the paper division was not working, the Turbine Division cannot function independently, therefore, the Turbine Division cannot exist without paper division of the company. Hence, according to the Ld. D.R., creating a part of the paper production process into a separate division amounts to splitting and reconstruction of existing business.

Therefore, according to the Ld. D.R., the CIT(Appeals) is not justified in allowing the claim of the assessee.

4. On the contrary, Shri A. Dhananjayan, the Ld. representative for the assessee, submitted that the very same issue came before this Tribunal for the assessment years 2007-08 to 2010-11 and this Tribunal by an order dated 18.12.2015, has allowed the claim of the assessee. For the assessment year 2011-12 in I.T.A. No.1452/Mds/2016, this Tribunal remitted back the matter to the file of the Assessing Officer to examine whether the assessee is maintaining independent and separate books of account for Turbine Division. According to the Ld. representative, the Assessing Officer after examining the same, allowed the claim of the assessee. Even for the subsequent year, the Assessing Officer allowed the claim of the assessee. Therefore, according to the Ld. representative, the CIT(Appeals) by placing reliance on the order of this Tribunal, has allowed the claim of the assessee. Merely because an appeal is said to be pending before the Madras High Court, according to the Ld. representative, that cannot be a reason to deny the claim of the assessee under Section 80-IA of the Act.

5. We have considered the rival submissions on either side and perused the relevant material available on record. As rightly submitted by the Ld. representative for the assessee, this Tribunal examined the issue elaborately for the assessment years 2007-08 to 2010-11 and allowed the claim of the assessee for deduction under Section 80-IA of the Act. Even for assessment year 2011-12, the matter was remitted back to the file of the Assessing Officer to examine whether the assessee was maintaining any separate books of account. The Assessing Officer by an order dated 26.12.2016, examined this issue and found that the assessee was maintaining separate books of account and allowed the claim of the assessee. In view of the above, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 28th February, 2018 at Chennai.

sd/-

(ए. मोहन अलंकामणी)

(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 28th February, 2018.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-18, Chennai-34
4. Principal CIT, Central-2, Chennai.
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.