# IN THE INCOME TAX APPELLATE TRIBUNAL CHANDIGARH BENCHES 'A', CHANDIGARH

## BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER & Ms. ANNAPURNA GUPTA, ACCOUNTANT MEMBER

**ITA No. 1668/Chd/2017**
Assessment Year: 2014-15

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| M/s Iskon Remedies,<br>Village Ogli, Kala Amb<br>Distt. Sirmour,<br>Himachal Pradesh | Vs. | The DCIT, Circle,<br>Shimla |

PAN No. AABFI9476R

**ITA Nos. 1669 & 1670/Chd/2017**
Assessment Years: 2013-14 & 2014-15

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| M/s Digital Vision,<br>Village Ogli, Kala Amb<br>Distt. Sirmour,<br>Himachal Pradesh | Vs. | The ITO,<br>Nahan |

PAN No. AAGFD4922Q

(Appellant) (Respondent)

Appellant By : Sh. Atul Goyal
Respondent By : Smt. Chanderkanta, Addl CIT.

Date of hearing : 26.03.2018
Date of Pronouncement : 26.03.2018

**ORDER**

**Per Bench:**

The captioned appeals have been preferred by the assessees against the separate orders of the Commissioner of Income Tax

(Appeals), [hereinafter referred to as CIT(A)], Shimla dated 27.10.2017 (in ITA No. 1668/Chd/2017) and dated 24.10.2017 (in ITA Nos 1669 & 1670/Chd/2017).

2. The sole issue raised in these appeals relates to the action of the CIT(A) in disallowing the claim of deduction @ 100% us 80IC of the Income-tax Act, 1961 (in short 'the Act') on account of substantial expansion of the Units.

4. During the course of hearing before us, it was brought to our notice that the issue involved in these appeals has already been adjudicated by the Hon'ble Himachal Pradesh High Court vide their order dt. 28 November 2017 in the group of cases with the lead case titled as M/s Stovekraft India vs. Commissioner of Income Tax, ITA No.20 of 2015, and it was pointed out that the Hon'ble High Court had decided the issue in favour of the assessee, holding that there is no bar in the said section denying the benefit of hundred percent deduction to new units undertaking substantial expansion. Our attention was drawn to the relevant conclusions of the Hon'ble High Court in this regard at para 55 of the order as under:

> *"55.Thus, in view of the above discussion, these appeals are allowed and orders passed by the Assessment Officer as well as the Appellate Authority and the Tribunal, in the case of each one of the Assesses, are quashed and set aside, holding as under:*
>
> *(a) Such of those undertakings or enterprises which were established, became operational and functional prior to 7.1.2003 and have undertaken substantial expansion between 7.1.2003 upto 1.4.2012, should be entitled to benefit of Section 80-IC of the Act, for the period for which they were not entitled to the benefit of deduction under Section 80-IB.*

*(b) Such of those units which have commenced production after 7.1.2003 and carried out substantial expansion prior to 1.4.2012, would also be entitled to benefit of deduction at different rates of percentage stipulated under Section 80-IC.*

*(c) Substantial expansion cannot be confined to one expansion. As long as requirement of Section 80-IC(8)(ix) is met, there can be number of multiple substantial expansions.*

*(d) Correspondingly, there can be more than one initial Assessment Years.*

*(e) Within the window period of 7.1.2013 upto 1.4.2012, an undertaking or an enterprise can be entitled to deduction @ 100% for a period of more than five years.*

*(f) All this, of course, is subject to a cap of ten years. [Section 80-IC(6)].*

*(g) Units claiming deduction under Section 80-IC shall not be entitled to deduction under any other Section, contained in Chapter VI-A or Section 10A or 10B of the Act [Section 80- IB(5)].”*

5. Ld. DR fairly admitted that the issue is squarely covered by the above decision of the Hon'ble jurisdictional High Court. It was, however, submitted that the issue be restored to the file of the Assessing officers for verification as to whether the assessees have actually carried out the substantial expansion to be entitled to claim deduction u/s 80IC of the Act.

6. We do not agree to the above contention raised by the Revenue at this stage. A perusal of the order of the Assessing officers reveals that the Assessing officers have not disputed that the assessees units have carried out substantial expansion as provided under clause (b) of sub section (2) read with clause (ix) of sub section (7) of section 80IC of the Act. Almost similar view has also been taken by the Hon'ble Himachal Pradesh High Court in the case of ‘M/s Stovekraft India vs.

Commissioner of Income Tax' (supra) in the following concluding para of the order:-

> *"58. On facts, we may clarify that the Revenue has not disputed, (a) the units having carried out substantial expansion within the definition of the Section, (b) their entitlement and extent of deduction would be dependent upon interpretation of the relevant provisions."*

We, therefore, do not find any justification at this stage to give the Assessing officers a second innings to re-examine undisputed facts.

7. In view of the above discussion, the impugned orders of the CIT(A) are set aside and the AOs are directed to grant to the assessee deduction at the rate of hundred percent of its eligible profits, as per the ruling of the jurisdictional High Court in this regard in the case of 'M/s Stovekraft India vs. Commissioner of Income Tax' (supra).

8. In the result, the appeals of the assessee, therefore, stands allowed.

Order pronounced in the Open Court

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| **Sd/-** | **Sd/-** |
| **(ANNAPURNA GUPTA)** | **(SANJAY GARG)** |
| **ACCOUNTANT MEMBER** | **JUDICIAL MEMBER** |

Dated : 26.03.2018
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*Copy to:*

1. *The Appellant*
2. *The Respondent*
3. *The CIT*
4. *The CIT(A)*
5. *The DR*