

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.2042, 2043, 2044 & 2045/Chny/2016

निर्धारण वर्ष / Assessment Years : 2009-10, 2010-11, 2012-13 & 2013-14

M/s MEPCO Industries Limited,
17-A, Vallabhai Road,
Chokkikulam, Madurai-625 002.

v. The Deputy Commissioner of
Income Tax,
Company Circle -2,
Madurai.

PAN : AAACM 7886 M
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Sh.S. Chandrasekaran, FCA

प्रत्यर्थी की ओर से/Respondent by : Ms. G.D. Jayanthi Angayarkanni, JCIT

सुनवाई की तारीख/Date of Hearing : 27.08.2018

घोषणा की तारीख/Date of Pronouncement : 19.09.2018

आदेश / O R D E R

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

All the appeals of the assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals) -1, Madurai, for assessment years 2009-10, 2010-11, 2012-13 and 2013-14. Since common issue arises for consideration in all these appeals, we heard these appeals together and disposing of the same by this common order.

2. The only issue arises for consideration is rejection of the claim made by the assessee under Section 80-IA of the Income-tax Act, 1961 (in short 'the Act').

3. Shri S. Chandrasekaran, the Ld. representative for the assessee, submitted that the one of the units of the assessee was not eligible for deduction under Section 80-IA of the Act. However, other two units are eligible for deduction. The Ld. representative further submitted that the loss of non-eligible unit was already set off by the assessee for the purpose of computing eligible profit for deduction under Section 80-IA of the Act. According to the Ld. representative, the Assessing Officer once again set off the losses and rejected the claim of the assessee on the ground that there was no profit in the business of the assessee. According to the Ld. representative, the claim of the assessee that the loss of non-eligible unit was already set off for the profit of eligible unit was not at all considered by either of the authorities below. Therefore, according to the Ld. representative, the judgment of Apex Court in *Synco Industries Ltd. v. Assessing Officer (Income Tax) (2008) (299 ITR 444)* is not applicable to the facts of the case. According to the Ld. representative, the CIT(Appeals) by simply placing reliance on the judgment of Madras High Court for the earlier assessment year, came to a conclusion that the assessee is not eligible for deduction under Section 80-IA of the Act. The Ld. representative further submitted that when the

assessee has positive business profit, even according to the Madras High Court and Apex Court, the assessee is eligible for deduction under Section 80-IA of the Act. Therefore, according to the Ld. representative, both the authorities are not justified in rejecting the claim of the assessee under Section 80-IA of the Act.

4. On the contrary, Ms. G.D. Jayanthi Angayarkanni, the Ld. Departmental Representative, submitted that the assessee claims that the loss suffered by the non-eligible unit was already set off while computing eligible profit, therefore, there is no need for set off the very same loss once again. According to the Ld. D.R., this fact needs to be verified. Therefore, the Ld. D.R. submitted that the matter may be remitted back to the file of the Assessing Officer.

5. We have considered the rival submissions on either side and perused the relevant material available on record. For the purpose of computing eligible profit for deduction under Section 80-IA of the Act, the assessee claims that the loss suffered by the non-eligible unit was already set off. If the assessee has already set off the loss of non-eligible unit, as rightly contended by the Ld. representative for the assessee, there is no need for setting off the very same loss once again. However, the loss suffered by the non-eligible unit was already set off by the assessee as claimed needs to be verified by the Assessing Officer.

Accordingly, orders of both the authorities below are set aside and the entire issue raised by the assessee is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter and bring on record whether the assessee has already set off the loss suffered by the non-eligible unit or not and thereafter decide the issue afresh under Section 80-IA of the Act, in accordance with law, after considering all the judgments available including the one of the Apex Court.

6. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the court on 19th September, 2018 at Chennai.

sd/-
(एस जयरामन)
(S. Jayaraman)
लेखा सदस्य/Accountant Member

sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 19th September, 2018.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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