

आयकर अपीलीय अधिकरण, 'सी' SMC न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
' C' SMC BENCH : CHENNAI

श्री जॉर्ज माथन, न्यायिक सदस्य

BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER

आयकर अपील सं./I.T.A.No.1192/Chny/2018

निर्धारण वर्ष /Assessment year : 2005-06

M/s.Chennai Pressings P Ltd.,
289/1,SIDCO Industrial Estate,
North Phase,Ambattur,
Chennai 600 098.

Vs. The ACIT,
Corporate Circle-1(3),
Chennai.

[PAN AAACC 4617 N]
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by : Mr.N.Arjunraj,C.A
प्रत्यर्थी की ओर से /Respondent by : Mr.B.Sagadevan, JCIT,D.R

सुनवाई की तारीख/Date of Hearing : 25-10-2018
घोषणा की तारीख /Date of Pronouncement : 25-10-2018

आदेश / ORDER

This is an appeal filed by the assessee against the order of the
Commissioner of Income-tax (Appeals)-3,Chennai in ITA No.82/10-
11/A-1 dated 30.01.2018 for the assessment year 2005-06.

2. Shri N.Arjunraj represented on behalf of the Assessee and shri B.Sagadevan represented on behalf of the Revenue.

3. It was submitted by the Ld.AR that the assessee is a domestic company, which is doing business of manufacture of automobile parts. It was a submission that assessee was entitled to deduction u/s.80-IB of the Act. It was a submission that while filing the return of income, assessee claimed deduction u/s.80-IB of the Act, but the same was denied on the ground that the Audit report in Form 10CCB was not filed along with the return of income. Consequently, notice u/s.148 was issued on 25.02.2010 to which the assessee had filed its response to treat the original return as the one filed in response to notice u/s.148 of the Act and it had also appended Form No.10CCB along with the letter to enforce the claim of deduction u/s.80-IB of the Act. The assessment came to be completed wherein it was noticed that the assessee had filed only the Form No.3CA and Form No.3CD and Audit report in Form No.10CCB was not part of the documents attached. It was a submission that the assessee had filed another letter along with Form 10CCB. However, the same was erroneous and so far as the nature of claim in column No.7 of Form No.10CCB was mention as Sec.80-IA of the Act instead of Sec.80-IB of the Act. It was a submission that on appeal, Ld.CIT(A) had confirmed the order of the

Id. Assessing Officer. It was a further submission that the assessee is now filing the correct Form-10CCB before the Tribunal. It was a prayer that assessee may be granted the benefit of deduction u/s.80-IB of the Act.

4. In reply, the Id.D.R submitted that if the rectified Audit report in Form No. 10CCB is filed before this Tribunal, the same must be filed before the Id. Assessing Officer for verification.

5. I have considered the rival submissions. Admittedly, in the course of appellate proceedings before this Tribunal, the assessee has filed a copy of rectified Audit report in Form No. 10CCB dated 23.10.2018. This being so, in view of the decision of Hon'ble Jurisdictional High Court in the case of CIT-1 Vs.AKS Alloys (P.) Ltd., reported in [2012] 18 Taxmann.com 25(Mad.) and also taking into consideration of the decision of Hon'ble Supreme Court in the case of Goetze (India) Ltd., Vs. CIT reported in [2006] 284 ITR 323(SC), the issue in this appeal is restored to the file of Id. Assessing Officer for re-adjudication after granting adequate opportunity to assessee to substantiate its case. The assessee shall produce the necessary Audit report in Form No. 10CCB before the Id. Assessing Officer for his examination. The Id. Assessing Officer shall examine the same and re-

adjudicate the same allowance of the claim u/s.80-IB of the Act by taking into consideration the rectified Form 10CCB.

6. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court after conclusion of hearing on 25th October, 2018, at Chennai.

Sd/-
(जॉर्ज माथन)
(GEORGE MATHAN)
न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai

दिनांक/Dated: 25th October, 2018.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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