

आयकरअपीलीयअधिकरण,सुरतन्यायपीठ,सुरत
IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH, SURAT
श्रीसी.एम.गर्ग,न्यायिकसदस्यतथाश्रीओ.पी.मीना, लेखासदस्यकेसमक्ष
BEFORE SHRI C.M.GARG, JUDICIAL MEMBER
AND SHRI O.P.MEENA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.ANo.2044/AHD/2015	निर्धारणवर्ष/A.Y. : 2011-12
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M/s. Neel Impex, Plot No.152, 2 nd Floor, Surat Special Economic Zone, Diamond Park, Sachin, Surat - 394 230. PAN: AAHFN 0599E	Vs.	Income Tax Officer, Ward - 6(3), Surat.
अपीलार्थी Appellant		प्रत्यर्थी/Respondent

निर्धारितकीओरसे /Assessee by	Shri Kushal Gheewala, CA
राजस्वकीओरसे /Revenue by	Shri Anil Dhaka, Sr.DR

सुनवाईकीतारीख/ Date of hearing:	05.04.2018
उद्घोषणाकीतारीख/Pronouncement date	18.04.2018

आदेश /O R D E R

PER O. P. MEENA, ACCOUTANT MEMBER:

1. The appeal filed by the assessee directed against the order of the Commissioner of Income Tax (Appeals)-1, Surat dated 30.04.2015 for the assessment year 2011-12.
2. The sole ground of appeal states that the ld. CIT(A) erred in upholding the finding of the Assessing Officer that interest income received by the assessee company on security/margin money deposits is not income derived from business activity specified u/s.10AA of the Act.

3. We have heard the rival contentions. The assessee is engaged in the business of export of diamonds and gold jewellery in Surat SEZ, Sachin. This is the second year of the business where the assessee has claimed deduction u/s.10AA of the Act @ 100% of the profit and gains derived from exports. However, the Assessing Officer considered the interest income amounting to Rs.78,737/- received from bank on deposits on the ground that income has no direct nexus with the manufacturing activity of the assessee. The Assessing Officer also supported his view by placing reliance on the decision of Hon'ble Supreme Court in Pandian Chemicals Ltd. 262 ITR 278 (SC) wherein it was clarified that expression of "attributable to" is quite different to "derived from" and has wider import. The interest security deposit with Electricity Board held to be ineligible for deduction u/s. 80IA of the Act.

4. Aggrieved with the order, the assessee carried the matter with the CIT(A) wherein the assessee has placed reliance on the decision of CIT(A)-2, Surat in the case of M/s. Gunjan Exports for the assessment year 2010-11 and 2011-12 after relying on the decision of Paras Motor Manufacturing Company in ITA No.875/Ahd/2012 (ITAT, Ahmedabad). The assessee was allowed the benefit of deduction u/s.10AA of the Act. The assessee has already relied upon the decision of Livingstone Jewellery Pvt. Ltd.

Of ITAT, Mumbai decision (30 SOT 323) wherein decision of M/s. Pandian Chemicals and M/s. Sterling Foods was considered and thereafter held that interest income earned on FDR is eligible for deduction u/s.10AA of the Act. However, the CIT(A) following the decision of ITAT, Ahmedabad in the case of M/s. Paras Motor Manufacturing Company vs. ACIT in ITA No.2682/Ahd/2010 dated 20.05.2011 wherein they have relied on the decision in the case of M/s. Pandian Chemicals vs. CIT (supra), the deduction of interest income of Rs.78,737/- was not held to be not eligible for deduction u/s.10AA of the Act.

5. Being aggrieved, the assessee has filed this appeal. The Id. Counsel for the assessee submitted that to carry out the business of the assessee, the assessee obtained the loan/credit facility from the bank which was sanctioned vide letter dated 15.03.2011 as per the terms and conditions for obtaining credit facility, the assessee had mandatorily keep a specified amount deposits, as collateral security with margin money with the bank. The Id. Assessing Officer is not justified in considering the interest income and on margin money collateral security deposit which was surely for the business purposes interest income received on the margin money/collateral security is a reduction towards the interest burden charged by the benefit for making available the loan/credit facility. The bank is on

one hand charged interest and is another hand interest on margin/collateral security, both the transactions being part of single agreement entered into with the sole purpose of specifying its business needs. The ld. Counsel also placed reliance on the later decision of ITAT, Ahmedabad in the case of ITO, Ward -2 for Surat vs. Gunjan Exports, ITA No.2837/Ahd/2013 for assessment year 2010-11 dated 22.11.2016 which is being a sister concern of the assessee wherein interest income received from FDR was considered as part of business income and are eligible for deduction u/s.10AA of the Act. The ld. Counsel also drew our attention to paper book page no.22 which is the interest on Deposit account with the Axis Bank and Paper Book Page No. 39 to 40 which shows that the deposits were given to comply with the requirement of banks so as to avail credit facilities.

6. On the other hand, the ld. Senior Departmental Representative supported the orders of the CIT(A) supported the orders of the CIT(A) and also relied on the decision of Hon'ble Supreme Court in the case of Pandian Chemicals.

7. We have heard the rival contentions and perused the material on record. The assessee is engaged in the business of export of diamonds and gold jewellery in Surat SEZ, Sachin. This is the second year of the business where the assessee has claimed

deduction u/s.10AA of the Act @ 100% of the profit and gains derived from exports. We find that the interest income amounting to Rs.78,737/- received from bank on deposits fails under income from other source and has direct nexus with profits and gains derived from export activity as the assessee has to keep margin money as collateral security mandatorily. Further, the issue is covered by decision of Co-ordinate Bench of ITAT, Ahmedabad in the case of ITO, Ward -2 for Surat vs. Gunjan Exports, ITA No.2837/Ahd/2013 for assessment year 2010-11 dated 22.11.2016 wherein interest income received from FDR was considered as part of business income and are eligible for deduction u/s.10AA of the Act. Hence, in such circumstances the deduction is held as allowable. Therefore, this grounds of appeal of the assessee is therefore, allowed.

8. In the result, appeal of the assessee allowed..

9. The order pronounced in the open Court on 18.04.2018

Sd/-
(C. M. GARG)
JUDICIAL MEMBER

Sd/-
(O.P. MEENA)
ACCOUNTANT MEMBER

सुरत/ Surat, दिनांक Dated: 18th April, 2018.

Copy of order forwarded to- Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file of ITAT.

By order

/ / TRUE COPY / /

Assistant Registrar, Surat