

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "C": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.6467/Del./2015  
Assessment Year 2012-2013

The ACIT, Circle - 40(1), Room No.1705, E-2 Block, Civic Centre, New Delhi.	vs.,	Shri Amit Arora, Prop. Hydro Valves, SU-74, Pitampura, New Delhi. PAN AAOPA6367L
(Appellant)		(Respondent)

For Revenue :	Shri Amit Katoch, Sr. D.R.
For Assessee :	Shri Arta Trana Panda, Advocate.

Date of Hearing :	19.08.2019
Date of Pronouncement :	02.09.2019

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-14, New Delhi, Dated 28.09.2015 for the A.Y. 2012-2013.

2. Briefly the facts of the case are that the assessee in the original return of income claimed deduction under

section 80IC of the I.T. Act, 1961. The assessee is an individual running a proprietorship business. The assessee is engaged in manufacturing and selling of LPG Gas stoves. The assessee has entered into a contract to supply domestic LPG Gas stoves. The manufacturing unit of the company is located at District Solan, Parwanoo, Himachal Pradesh. This enterprise commenced operation during the Assessment Year 2007-08 and claimed deduction under section 80IC from the Assessment Year 2007-08 by declaring it to be its initial Assessment Year in form 10CCB for the claim of deduction. The claim has been sustained for a period of five consecutive assessment years starting from the initial assessment year for the Assessment Years 2007-08 to 2011-12. The instant Assessment Year is the sixth Assessment Year of claiming deduction under section 80IC of the Act. The assessee has claimed deduction @ 100% of the profits on the sixth year beginning from the Assessment year of its commencement of operations. The assessee has claimed that substantial expansion has been completed during the A.Y. 2011-12 resulting in increase of installed capacity of

the unit. The assessee, therefore, claimed that since substantial expansion have been completed, therefore, assessee would be entitled for deduction @ 100%. The A.O. however, allowed deduction @ 25% only and made the impugned addition. The assessee relied upon the Order of the ITAT, Delhi Bench in the case of Tirupati LPG Industries Ltd., vs. DCIT in ITA.No.991/Del./2013, Dated 29.01.2014 and submitted that assessee is entitled for 100% deduction. The Ld. CIT(A) accepted the claim of assessee and allowed the appeal of assessee.

3. Earlier, the Departmental appeal was allowed vide Order dated 05.02.2019 following Judgment of the Hon'ble Supreme Court in the case of CIT vs., Classic Binding Industries [2018] 96 taxmann.com 405 (SC).

3.1. The assessee preferred M.A. before the Tribunal and it was contended that subsequently the above Judgment of the Hon'ble Supreme Court have been overruled by the Hon'ble Supreme Court in the case of Pr. CIT, vs., Aarham Softronics [2019] 102 taxmann.com 343 (SC). The Tribunal in view of the above Judgment of Hon'ble

Supreme Court, recalled its order considering it mistake apparent on record and directed to re-fix the appeal for hearing on merits. The M.A. of the assessee was allowed vide Order dated 26.07.2019.

4. In view of the above, the Departmental Appeal is re-fixed for hearing.

5. Learned Counsel for the Assessee submitted that the issue is covered in favour of the assessee by the Judgment of Hon'ble Supreme Court in the case of Pr. CIT, Shimla vs., Aarham Softronics (supra) in which it was held as under :

*“Assessee having set up a new industry of a kind mentioned in section 80-IC(2) and started availing exemption of 100 per cent tax under section 80-IC(3) (which is admissible for five years) could start claiming exemption at same rate of 100 per cent beyond period of five years if it carried out substantial expansion in its*

*manufacturing unit in terms of section 80-IC(8)(ix) within period of ten years.”*

6. The Ld. D.R. also stated that the issue is covered in favour of the assessee by the above Judgment of the Hon'ble Supreme Court.

7. In view of the above latest Judgment of the Hon'ble Supreme Court in the case of Pr. CIT, Shimla vs., Aarham Softronics (supra), we are of the view that the issue is covered in favour of the assessee. Therefore, the Departmental Appeal stands dismissed.

8. In the result, appeal of the Department dismissed.

Order pronounced in the open Court.

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

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Delhi, Dated 02<sup>nd</sup> September, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "C" Bench
6.	Guard File

//By Order//

Asst. Registrar : ITAT : Delhi Benches :  
Delhi.

Date of dictation	19.08.2019
Date on which the typed draft order is placed before the dictation Member	20.08.2019
Date on which the approval draft comes to the Sr. PS	02.09.2019
Date on which the fair order is placed before the Dictation member for pronouncement	02.09.2019
Date on which the fair order comes back to the Sr. P.S.	02.09.2019
Date on which the final order is uploaded on the website of ITAT	02.09.2019
Date on which the file goes to the Bench Clerk	02.09.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order.	