

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
(Through Video Conferencing)**

**BEFORE
SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 5233/Del/2017
Asstt. Year 2013-14

DCIT Circle 12(1), New Delhi.	Vs.	M/s. Indo Rama Synthetics Ltd. 20 th Floor, DLF Square, DLF Phase-II, NH-8, Gurgaon, Haryana – 122 002
(Appellant)		(Respondent)

Department by:	Ms. Sunita Singh, CIT(DR)
Assessee by :	Shri Rohit Jain, Advocate
Date of Hearing	24.11.2020
Date of pronouncement	26.11.2020

ORDER

PER N.K. BILLAIYA, AM

This appeal by the revenue is preferred against the order of the CIT(A)-4, New Delhi dated 20.6.2017 pertaining to assessment year 2013-14.

2. The solitary grievance of the revenue is that the CIT(A) erred in holding that the sales tax subsidy amounting to Rs. 61,20,12,557/- is a capital receipt.

3. During the course of the scrutiny assessment proceedings, the AO noticed that the assessee has claimed sales tax subsidy amounting to Rs. 61.20 crores as capital receipt is not liable to tax.

4. The AO was of the firm belief that the sales tax subsidy of Rs. 61.20 crores received by the assessee is revenue's receipt and hence taxable. The AO accordingly treated the same as income of the assessee.

5. The assessee carried the matter before the CIT(A) and referred to the decision of the Tribunal in asstt. Year 1997-98, 2003-04 and 2004-05 and pointed out that such subsidy has been treated as capital receipt by the Tribunal in earlier assessment years. Following the order of the Tribunal, the CIT(A) deleted the addition.

6. Before us, Ld. DR could not point out any factual/legal infirmity in the findings of the CIT(A). The AR relied upon the order of the Tribunal in earlier years.

7. We have carefully considered the orders of the authority below. We find force in the claim that the impugned issue is covered in favour of the assessee and against the revenue by the earlier order of the Tribunal in ITA No. 2130/Del/2008, 967/Del/2010 and 5323/Del/2011 wherein the Tribunal held as under :-

“We have heard the rival contentions in light of the material produced and precedents relied upon. We find that Ld. CIT(A) has given a finding that issue in dispute was covered by the Special Bench decision of the Tribunal in the case of Reliance Industries Ltd. (Supra). Though the scheme applicable in the case of Reliance Industries Ltd. was 1979 scheme, however, in the 1993 scheme terms and conditions were of the same nature and intent. For this purpose, a comparative chart was referred by the Ld. CIT(A). As per the comparative chart the terms and conditions applicable in 1979 scheme were of the same nature and intent of the 1993 scheme. We further note that Mumbai Tribunal in the case of Everest Industries Ltd. in IT A No. 814/Mum/2007 has held that salient features of the 1993 scheme are identical to that of 1979 scheme. We further note

that the Tribunal in ITA No. 678 & 679/Del/2012 in the case of M/s Indo Rama Textiles Ltd. on identical facts has held that the decision of the Mumbai Tribunal, Special Bench in the case of Reliance Industries 88 ITD 273 is applicable. Accordingly, in the background of the aforesaid discussion and precedents, we hold that the Ld. CIT(A) has passed a reasonable order which does not need any- interference on our part. Accordingly, we uphold the same."

8. Respectfully following the same we decline to interfere.

Appeal by the revenue is accordingly dismissed.

9. In the result the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 26th November, 2020.

sd/-
(MS. MADHUMITA ROY)
JUDICIAL MEMBER

sd/-
(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Dated: /11/2020

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Copy forwarded to

1. Applicant
2. Respondent
3. CIT

4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi