

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E' NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER
AND
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER**

**ITA No. 5110 & 5111/Del/2018
Assessment Year: 2013-14 & 2014-15**

A.C.I.T., Circle,
Rohtak (Haryana)

vs.

Micro Turners,
Mal Godam Road,
Rohtak (Haryana)

PAN : AABFM1796J
(Appellant)

(Respondent)

Appellant by : Ms. Paramita M. Biswas, CIT/DR
Respondent by: Sh. Gautam Jain, Advocate

Date of hearing: 09/08/2021
Date of order : 09/08/2021

ORDER

PER K. NARASIMHA CHARY, J.M.

Aggrieved by the orders dated 04/05/2018 passed by the Commissioner of Income Tax (Appeals)-Rohtak ("Ld. CIT(A)") in the cases of Micro Turners ("the assessee"), for the assessment years 2013-14 and 2014-15, the Revenue preferred these appeals. Since the facts involved and the grounds raised in both the appeals are similar, for the sake of convenience, we dispose of both the appeals by way of this consolidated order and take the facts involved in ITA No. 5110/Del/2018 as lead case.

2. Brief facts of the case are that the assessee is engaged in the business of manufacturing and job work of precision turned components

and fasteners. For the assessment year 2013-14, the assessee filed their return of income on 30.11.2013 declaring income of Rs.12,54,87,250/-. However, assessment was complete at an income of Rs.24,32,23,834/-, making addition of Rs.1,21,45,213/- by disallowing the expenses of taxable units upon allocation and Rs.10,55,91,371/- by restricting the rate of deduction.

3. When the assessee preferred appeal, learned CIT(A), while placing reliance on the orders of co-ordinate Bench of this Tribunal for the assessment years 2005-06, 2009-10, 2010-11 and 2011-12, wherein an issue similar to ground No. 1 was involved, gave relief to the assessee. Similarly, learned CIT(A) granted relief in respect of the addition of Rs.10,55,91,371/- also. Challenging such deletion, the Revenue is before us in these appeals.

4. In so far as the learned CIT(A) granting relief to the assessee basing on the orders of the Tribunal for the assessment years 2005-06 and 2009-10 to 2011-12 is concerned, it remains an admitted fact that the coordinate Bench of this Tribunal decided similar issue in favour of the assessee and the Revenue does not dispute the same. It also remains an admitted fact that subsequently on verification, learned Assessing Officer found that the assessee is maintaining separate books of account. Since this ground remains covered by the orders of Tribunal for the earlier assessment years, the Revenue fairly concedes the position. Consequently, we do not find any illegality or irregularity in the findings of the Id. CIT(A) and while upholding the same, we dismiss first ground of appeal.

5. So far as second ground of appeal is concerned, it relates to deletion of addition of Rs.10,55,91,371/- by restricting the rate of

deduction u/s. 80IC of the Income-tax Act, 1961 for Pantnagar Unit from 100% to 25% holding that the benefit of substantial expansion is applicable for the units established after 7th June, 2003. On this aspect, the assessee places reliance on the decision of Hon'ble Apex Court in the case of PCIT vs. Arham Softronics, 412 ITR 623 (SC), wherein it has been held that in case of substantial expansion is carried out as defined in clause (ix) of sub-section (8) of section 80IC by such an undertaking or enterprise, within the period of 10 years, the said previous year, in which the substantial expansion is undertaken would become the initial assessment year and from that assessment year, the assessee shall be entitled to 100% deduction of the profits and gains. In view of this binding precedent of Hon'ble Apex Court, we hold that the assessee is entitled to claim of 100% deduction and the Id. CIT(A) rightly allowed the same. Consequently, ground No. 2 is also dismissed. Accordingly, the appeal of the Revenue for the assessment year 2013-14 has to be dismissed.

6. Since the grounds raised in appeal for the assessment year 2014-15 are substantially similar in the same set of facts, our decision in appeal for A.Y. 2013-14 shall equally apply in appeal of Revenue for A.Y. 2014-15 also.

7. In the result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on this the 9th day of August, 2021 just after conclusion of hearing on virtual mode.

Sd/-

(O.P. KANT)
ACCOUNTANT MEMBER
Dated: 09/08/2021

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER