

**IN THE INCOME TAX APPELLATE TRIBUNAL PATNA BENCH VIRTUAL
HEARING AT KOLKATA****[BEFORE SHRI ABY. T. VARKEY, JUDICIAL MEMBER &
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER]****I.T.A. No. 52/Pat/2015
Assessment Year: 2006-07**

TRISHUL HI-TECH INDUSTRIES (PAN: AACFT 3475 G)	Vs	DCIT, Central Circle-2, Patna
Appellant	.	Respondent

Date of Hearing (Virtual)	21.12.2021
Date of Pronouncement	16.02.2022
For the Appellant	Shri Somnath Ghosh, Advocate
For the Respondent	Shri Rupesh Agarwal, Sr. DR

ORDER**PER SHRI RAJESH KUMAR, AM:**

The only issue raised in the appeal by the assessee is against the order of Ld. CIT(A) upholding the assessment order wherein the AO has denied deduction claimed u/s 80IC of the Act in respect of aggregating sums of Rs. 7,17,27,768/- in respect of transport subsidy, central interest subsidy, power subsidy and central excise refund on the ground that the same were not derived from manufacturing activities and thus the deduction claimed is totally illegal, illegitimate.

2. The facts in brief are that the assessee is engaged in the business of manufacturing M.S. Ingots, Bars and Section etc in the North Eastern Region and this is the 4th year of manufacturing. The assessee has claimed deduction u/s 80IC of the Act in respect of profit and gains derive from its industrial undertaking on the same lines as claimed in the earlier years. The case of the assessee was selected for scrutiny and statutory notices were duly issued and served upon the assessee during the assessment proceedings. During the assessment proceedings, the Ld. AO observed upon examination of books of accounts that the assessee has claimed deduction in

respect of subsidies aggregating to Rs. 7,17,27,768/- on account of transport subsidy, central interest subsidy, power subsidy and central excise refund. The AO noted in the assessment order that the similar claim in respect of subsidies was rejected in earlier assessment years by treating the same as revenue receipts to which the provisions section 80IB/80IC of the Act were not applicable and the appeal of the assessee was also dismissed by Id. CIT(A) by following the decision of Apex Court in the case of Sahney Steel and Press Works Ltd. As reported in 228 ITR 253 (SC). The appeal of the assessee for the instant year was also dismissed by the Ld. CIT(A) by giving the same reasons that the subsidy amounting to Rs. 7,17,27,768/- does not qualify u/s 80IC of the Act.

3. At the outset the Id. AR submitted that the issue in respect of transport subsidy, central interest subsidy, power subsidy and central excise refund has been settled and decided in favour of the assessee in assessee's own case in ITA No. 96 & 215/Gau/2007 for A.Y. 2003-04 & 2004-05 and in ITA No. 167/Gau/2008 for A.Y. 2005-06 vide dated 18.11.2013 by the coordinate bench of the Tribunal. The Id. AR submitted that the coordinate bench has followed the decisions of Guwahati High Court in the case of CIT vs Meghalaya Steels Ltd. in ITA No. 07/2010 reported in 356 ITR 235(Guh) . The Ld. AR submitted that the said decision of Guwahati High Court has been affirmed by the Hon'ble Apex Court in the case of CIT vs Meghalaya Steels Ltd. reported in (2016) 383 ITR 217. The Ld. AR, therefore, prayed that since the issue has been settled by the Hon'ble Apex Court by holding that subsidies were in the nature re-imbusement to the assessee for elements of cost relating to manufacture or sale of their products and therefore was having direct nexus with the cost incurred by the assessee. The Id AR , therefore, prayed that the appeal of the assessee may kindly be allowed. The Ld. DR, on the other hand, relied on the order of the authorities below.

4. After hearing rival contentions of the parties and perusing the material on record including the decision of the coordinate bench from A.Y. 2003-04 to 2005-06

as referred to above and also the decision of Hon'ble Guwahati and Apex Court in the case of CIT vs Meghalaya Steels Ltd. (supra) whereby the appeal of the Hon'ble Guwahati High Court has been upheld by dismissing the appeal of the revenue by the Hon'ble Apex Court by holding that the amounts received by the assessee in respect of transport, central interest subsidy, power subsidy and central excise refund are in the nature of reimbursement of cost to the assessee for setting up industries in the backward areas as per the policy of government. In our opinion the issue is settled in favour of the assessee and we, therefore, respectfully following the aforesaid decision set aside the order of CIT and direct the AO allow the claim of deduction u/s 80IC of the Act.

5. In the result, the appeal of assessee is allowed.

Order is pronounced in the open court on 16th February, 2022.

Sd/-
(A. T. Varkey)
Judicial Member

Sd/-
(Rajesh Kumar)
Accountant Member

Dated: 16.02.2022

Biswajit, Sr. PS

Copy of the order forwarded to:

1. Appellant- Trishul Hi-Tech Industries, C/o. S.N. Ghosh & Associates, Advocates, "SEBEN BROTHERS LODGE", P.O. Buroshibtala, P.S. Chinsurah, Dist. Hooghly, Pin. 712105.
2. Respondent – DCIT, Central Circle-2, Patna.
3. The CIT(A)-I, Patna
4. CIT-
5. DR,

True Copy

By Order

Senior Private Secretary
ITAT, Kolkata Benches, Kolkata