

आयकर अपीलीय अधिकरण 'डी' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.649/Chny/2018**
(निर्धारण वर्ष / **Assessment Year: 2013-14**)

M/s. MDS Wind Farms Pvt. Ltd. 75/1, Dr. Ansari Street Pollachi – 642 001.	बनाम/ Vs.	ITO, Corporate Ward-2, Coimbatore.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAHCM-8744-M		
(□ पीलार्थी/Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T. Banusekar (CA) - Ld. AR
प्रत्यर्थी की ओरसे/Respondent by	:	Shri G. Johnson (Addl. CIT) –Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	05-05-2022
घोषणा की तारीख / Date of Pronouncement	:	12-05-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2013-14 arises out of the order of learned Commissioner of Income Tax (Appeals)-1, Coimbatore [CIT(A)] dated 07-12-2017 in the matter of assessment framed by Ld. Assessing Officer [AO] u/s.143(3) of the Act on 15-02-2016. The Ld. AR submitted that the main issue is denial of deduction u/s 80-IA. It was submitted that the erstwhile firm Meenakshi

Distribution Service got converted into a corporate entity and it was not a case of splitting-up or reconstruction of business as wrongly understood by lower authorities. In the said background, Ld. AR pleaded to restore the matter back to the file of Ld. AO for fresh consideration on the ground that no independent findings have been rendered in the impugned order. To support the argument, Ld. AR placed on record the details of partnership and company as under: -

DETAILS OF PARTNERSHIP / COMPANY

Date	Name of the Firm / Company	PAN No.	Partners / Shareholders	Nature of Business	Remarks
29.09.2007	Meenakshi Distribution Service	AAOFM6571E	V. Ramanathan C. Kannathal N. Bhuvanewari T. Kalyani	1. Pharmaceutical Retailing 2. Windmill	Refer Page 2
11.03.2012	Deed of Reconstitution of old firm and name change as MDS Wind Farms (Formerly known as Meenakshi Distribution Service with PAN: AAOFM6571E)	AAOFM6571E	V.Ramanathan V.Narayanan V.Chinniah T.Kalyani RM.Vasanthi N.Bhuvanewari C.Kannathal	1. Pharmaceutical Retailing (included in objects but never carried on) 2. Windmill	Reconstitution of existing firm with admission of new partners and change of name. (Refer pages 11 and 15)
23.03.2012	MDS Wind Farms Pvt. Ltd. [Conversion of MDS Wind Farms under Part IX of the Companies Act, 1956]	AAHCM8744M	V.Ramanathan V.Narayanan V.Chinniah T.Kalyani RM.Vasanthi N.Bhuvanewari C.Kannathal	Wind Energy Generation and Sale	MOA refers to the partnership deed dated 29.09.2007 and the deed dated 11.03.2012 for change in name and admission of partners (Refer pages 19 and 20)

The Ld. Sr. DR submitted that the relevant facts are not available on record. Having gone through the orders of lower authorities, our adjudication would be as under.

2. The assessee being resident corporate entity was assessed u/s 143(3) on 15.02.2016. The assessee was engaged in the business of wind energy generation and sale. The assessee company was formed on 23.03.2012 and it claimed deduction u/s 80-IA for Rs.57.55 Lacs. However, Ld. AO denied the same on the allegation that the assessee did not fulfil the conditions of Sec.80-IA(3) as well as Sec.80-IA(5). Another issue that cropped up was claim of higher depreciation while computing Book Profit u/s 115JB. The Ld. AO denied the same. Though the assessee preferred further appeal before first appellate authority, however, the Ld. CIT(A) merely endorsed the stand of Ld. AO in paras 5 & 6 of the impugned order and dismissed the appeal. Aggrieved, the assessee is in further appeal before us,

3. After going through the impugned order, we find that Ld. CIT(A) has not rendered any independent findings and merely endorsed the view of Ld. AO. Keeping in view the submissions made before us, we deem it fit to set aside the impugned order and restore both the issues back to the file of Ld. AO for fresh consideration. The assessee is directed to demonstrate that it was entitled for deduction u/s 80-IA and also justify claim of higher depreciation u/s 115JB. Needless to add that adequate opportunity of hearing shall be granted to the assessee.

4. The appeal stand allowed for statistical purposes.

Order pronounced on 12th May, 2022.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 12-05-2022
EDN/-

आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर
आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF