

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “SMC” BENCH: NEW DELHI**

BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER

**ITA No.3129/Del/2017
[Assessment Year : 2012-13]**

Parvatiya Plywood (P) Ltd., A-2/60, 2 nd Floor, Shiv Arcade, Acharya Niketan, Mayur Vihar, Phase-I, New Delhi-110091. PAN-AAACP4522H	vs	ITO, Ward-19(3), New Delhi.
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Om Prakash, Sr.DR	
Date of Hearing	17.01.2023	
Date of Pronouncement	17.01.2023	

ORDER

PER KUL BHARAT, JM :

The present appeal filed by the assessee for the assessment year 2012-13 is directed against the order of Ld. CIT(A)-16, New Delhi dated 21.03.2017. The assessee has raised following grounds of appeal:-

1. *“That on the facts and circumstances of the case, the Ld.CIT(Appeals) is not justified and has erred in law in upholding the order passed by A.O. which is erroneous and bad in law.*
2. *That on the facts and circumstances of the case, the Ld.CIT(Appeals) is not justified and has erred in law in upholding the denial of deduction of Rs.34,49,325/- u/s 80IC of the I.T.Act, 1961.*
3. *That the appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”*

2. The effective ground raised by the assessee in this appeal is against the denial of rejection of claim regarding deduction of Rs.34,49,325/- claimed u/s 80-IC of the Income Tax Act, 1961 (“the Act”).

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. It is seen from the records that no one has been attending the proceedings on behalf of the assessee since 22.09.2022. Therefore, the appeal is taken up for hearing in the absence of the assessee and is being decided on the basis of the material placed on record.

4. Facts giving rise to the present appeal are that the assessee filed its return of income through e-mode on 30.09.2012 declaring NIL income. It is recorded by the Assessing Officer ("AO") that the assessee has claimed deduction u/s 80IC of the Act, amounting to Rs.34,49,325/-. In respect of statutory notices, Ld.AR of the assessee attended the assessment proceedings. The AO had sought explanation regarding the claim of the assessee for deduction u/s 80IC of the Act. However, the explanation of the assessee was not found acceptable and the AO recorded the finding that the plant of the assessee company was not installed in the approved notified area which is mandatory for claiming deduction u/s 80IC of the Act hence, the deduction was denied and same was added back into the income of the assessee.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A) who also sustained the addition and dismissed the appeal of the assessee.

6. Aggrieved against the order of Ld.CIT(A), the assessee is in appeal before this Tribunal.

7. Ld. Sr. DR, Shri Om Prakash submitted that the assessee vide letter dated 12.12.2022 stated that the representation is made to Prime Minister office for consideration. It is requested by the assessee that the outcome of the same may be awaited. He further submitted that the assessee is not entitled

for the deduction as the plant is not situated in the notified area. Therefore, there is no infirmity in the orders passed by the authorities below.

8. I have heard Ld. Sr. DR and perused the material available on record and gone through the orders of the authorities below. I find that there is no dispute with regard to the fact that for claiming deduction u/s 80IC of the Act, the manufacturing plant should be installed in the notified area. However, the assessee stated that due to mistake made by the State Government, Khasra Number of the land on which manufacturing unit of the assessee company is situated, was left for inclusion. In view of the fact that the assessee's plant is undisputedly not situated in the notified area hence, there is no infirmity in the order passed by authorities below. Relevant contents of section 80IC of the Act are reproduced as under:-

80-IC. "(1).....

(2) *This section applies to any undertaking or enterprise,—*

(a) which has begun or begins to manufacture or produce any article or thing, not being any article or thing specified in the Thirteenth Schedule, or which manufactures or produces any article or thing, not being any article or thing specified in the Thirteenth Schedule and undertakes substantial expansion during the period beginning—

(i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2007, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central

*Government in this regard, in the State of Sikkim;
or*

(ii) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Himachal Pradesh or the State of Uttarakhand; or

(iii) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in any of the North-Eastern States;

(b) which has begun or begins to manufacture or produce any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule, or which manufactures or produces any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule and undertakes substantial expansion during the period beginning—

(i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2007, in the State of Sikkim; or

- (ii) *on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in the State of Himachal Pradesh or the State of Uttaranchal; or*
- (iii) *on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any of the North-Eastern States.”*

A bare reading of the above statutory provision makes it clear that the assessee was not eligible for deduction u/s 80IC of the Act. Thus, grounds raised by the assessee are rejected.

9. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 17th January, 2023.

Sd/-

**(KUL BHARAT)
JUDICIAL MEMBER**

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI