

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA-GUWAHATI 'e-COURT', KOLKATA
[Virtual Court Hearing]**

**Before Shri Rajpal Yadav, Vice-President(KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 74/GAU/2020
Assessment Year: 2013-2014**

***Assistant Commissioner of Income Tax,.....Appellant
Circle-1, Guwahati,
Room No. 613, 6th Floor,
Aayakar Bhawan, G.S. Road,
Christian Basti, Guwahati-781005***

-Vs.-

***M/s. Dyna Roof Pvt. Limited,.....Respondent
5th Floor, Anil Plaza,
G.S. Road, Guwahati-781005, Assam
[PAN:AABCE9269N]***

Appearances by:

*Shri N.T. Sherpa, JCIT, appeared on behalf of the
Revenue*

Shri Kishor Jain, FCA, appeared on behalf of the assessee

Date of concluding the hearing : December 21, 2022

Date of pronouncing the order : February 20, 2023

O R D E R

Per Dr. Manish Borad, Accountant Member:-

This appeal at the instance of Revenue for assessment year 2013-14 is directed against the order of ld. Commissioner of Income Tax (Appeals), Guwahati-2, Guwahati dated 30.09.2019, which is arising out of the

order under section 143(3) of the Act on 29.01.2016 framed by ITO, Ward-4(1), Guwahati.

2. The grounds of appeal raised by the Revenue read as under:-

- (1) On the facts and in the circumstances of the case and in law, Id. CIT(A) has erred in allowing appeal of the assessee without appreciating the facts of the case.*
- (2) The Id. CIT(A) has erred in facts as well as in law in deleting the amount of Rs. 1,90,01,672/- added on account of VAT remission.*
- (3) That the Id. CIT(A) has erred in facts as well as in law in relying on the cited Hon'ble Supreme Court Judgment in deleting the addition on account of Vat remission as the cited case does not cover the issue of VAT emission.*
- (4) That while the refund of Central Excise duty is related to production however, VAT remission is not related to production activity but to post production sales activity.*

3. The only issue for our consideration is that whether the amount received by the assessee towards VAT remission at Rs.1,90,01,672/- is eligible for the purpose of deduction under section 80IC of the Income Tax Act.

4. At the outset, Id. Counsel for the assessee submitted that the issue stands squarely covered by the decision of Coordinate Bench, Guwahati in assessee's own case for A.Y. 2010-11 in ITA No.32/GAU/2016 dated 22.08.2016.

5. On the other hand, though ld. D.R. supported the order of the ld. Assessing Officer, we failed to controvert the submission made by the ld. Counsel for the assessee.

6. We have heard the rival contentions and the relevant records placed before us. The assessee is a Private Limited Company and claimed deduction under section 80IC of the Act. During the year under consideration, the assessee received Rs.1,90,01,672/- towards VAT remission. The ld. Assessing Officer denied the benefit of section 80IC for the said amount. However, the ld. CIT(Appeals) allowed the claim of deduction under section 80IC of the Act on the said amount of VAT remission. Before us, ld. Counsel for the assessee has referred to the decision of this Tribunal in assessee's own case for A.Y. 2010-11 (supra). Perusal of the same, we find that the same issue was for consideration regarding deduction under section 80IC of the Act in respect of VAT remission in this Tribunal considering the decision in the case of *CIT -vs.- Meghalaya Steels Limited in ITA No. 46/GAU/2009 dated 19.03.2010* decided against the Revenue. Since the facts of the case remain the same and the view has been taken by this Tribunal in assessee's own case, therefore, taking a consistent view and also since the ld. D.R. failed to controvert the same by placing any other binding precedence in its favour, we do not find any reason to interfere in the finding of the ld. CIT(Appeals) and the same is confirmed. Thus the effective grounds 1 to 4 by the Revenue are dismissed.

7. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open Court on 20th February, 2023.

Sd/-

Sd/-

(Rajpal Yadav)
Vice-President(KZ)
Kolkata, the 20th day of February, 2023

(Manish Borad)
Accountant Member

*Copies to :(1) Assistant Commissioner of Income Tax,
Circle-1, Guwahati,
Room No. 613, 6th Floor,
Aayakar Bhawan, G.S. Road,
Christian Basti, Guwahati-781005*

*(2) M/s. Dyna Roof Pvt. Limited,
5th Floor, Anil Plaza,
G.S. Road, Guwahati-781005, Assam*

*(3) Commissioner of Income Tax (Appeals),
Guwahati-2, Guwahati;*

4) Commissioner of Income Tax- ;

(5) The Departmental Representative

(6) Guard File

TRUE COPY

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.