

IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'C' : NEW DELHI)
BEFORE SH. SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SH. ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.2060/Del/2019, A.Y. 2014-15

Heena Export Corporation 1031/2, Link Road, Faridabad PAN : AABFH7670N (APPELLANT)	Vs.	Deputy Commissioner of Income Tax, Central Circle-1, Faridabad (RESPONDENT)
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Assessee by	Sh. Rakesh Jain, Adv.
Revenue by	Shri Anuj Garg, Sr. DR

Date of hearing:	25.01.2023
Date of Pronouncement:	13.03.2023

ORDER

PER ANUBHAV SHARMA, JM:

The appeal has been filed by the Assessee against order dated 10.01.2019 passed in appeal no. 10364/2017-18 for assessment year 2014-15, by the Commissioner of Income Tax (Appeals)-Faridabad (hereinafter referred to as the First Appellate Authority or in short 'Ld. F.A.A.')

in regard to the appeal before it arising out of assessment order dated 29.12.2017 u/s 143(3) of I.T. Act, 1961 (hereinafter referred to as 'the Act') passed by DCIT, Circle-1, New Delhi (hereinafter referred as Ld. Assessing officer or in short Ld. AO).

2. The facts of the case the assessee is a partnership firm having 6 partners with equal profit & losses sharing ratio & engaged in the business of manufacturing of Mehendi whereby having hair dye power manufacturing unit

in Faridabad (Haryana) & another unit wherein the deduction u/s 80IC has been claim is at Haridwar (Uttarkhand). The proportion of expenses and turnover of Faridabad-Haridwar unit was formed the basis to recompute the allocation of expenses viz-a-viz the turnover ratio of both units. Resultantly the dispute impugned is qua wrongly stating understatement of expenses at Haridwar for claiming a deduction u/s 80IC at the rate of 100 percent which is restricted to Rs. 21.57 crores.

3. Assessee has raised following grounds of appeal before the Tribunal :-

“1. Because the action for restricting deduction u/s 80IC to an amount of Rs 21,57,41/997/- is being challenged on facts & law by returning erroneous finding relying upon allocation of expenses viz-a-viz the turnover ratio of both units.

2. Because the action is being challenged on facts & law for reducing deduction u/s 80IC amounting Rs 10,36,954/- by returning erroneous finding that publicity expenses & partners salary claimed are not in proportion to the turnover of Haridwar unit (80IC deduction available) & Faridabad unit.

3. Because the action for invoking section 92CA(4) is being challenged on facts & law while order dt 31/03/2017 u/s 92CA(3) favouring the assessee has attained finality, hence additionally the assumption of jurisdiction & mis-application thereof is under challenge.

4. For any consequential relief and/ or legal claim arising out of this appeal and for any addition, deletion, amendment and modification in the grounds of appeal before the disposal of the same in the interest of substantial justice to the assessee.”

4. Heard and perused the record.
5. At the time of final arguments Ld. AR stated at bar that is not pressing ground no. 1, 3 and 4 with regard to ground no. 2 he could not defend the same as admittedly in assessee's own case for the assessment year 2008-09 & 2011-12 assessee had preferred cross objections of similar nature which were dismissed withdrawn while deciding the ITA No. 2944/Del/2017 and other appeals vide order dated 23.06.2021 as earlier in ITA no. 2345/Del/2016 for assessment year 2011-12 vide order dated 29.05.2017 the issue has been dealt and decided against the assessee in para no. 44 as follows :-

“44. However, at this juncture, we are in agreement with the contention of the AO that the assessee has not claimed any advertisement and publicity expenses at Haridwar unit and interest on partners' capital and partners' remuneration/ salary have not been claimed in proportionate to the turnover of both the units. Out of total expenditure of 81,32,030/- the assessee has claimed only 22,10,307/- at Haridwar unit and if the quantum of turnover of both the units is considered we clearly observe that the assessee has claimed Rs. 54,92,093/- less in the Haridwar division and this amounts have been excessively debited to the Faridabad unit profit and loss account to the Faridabad unit. As during the arguments and rejoinder the Ld. AR did not dispute these facts therefore, in all fairness to the Revenue we direct the AO to re-compute the profits of Haridwar division by debiting an amount of Rs. 54,92,093/- to the profit and loss account for calculating deduction of u/s 80IC of the Act and this would meet the ends of justice. The centralized and common advertisement, publicity, partner's interest on capital and remuneration/ salary etc. should be apportioned and distributed in the ratio of turnover for proper quantification of profits of taxable unit of Faridabad and exempt unit at Haridwar and as such by this adjustment no prejudice would be caused to the assessee or revenue.”

6. The Id. CIT(A) has taken into consideration the same while observing that Ld. AO has justified his order bifurcating the above expenses and

recomputing the reduction. Therefore, the Bench finds no error in the findings and the grounds no. 2 has no substance, **consequently, the appeal of assessee is dismissed.**

Order pronounced in the open court on 13 March, 2023.

Sd/-

(SHAMIM YAHYA)

ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)

JUDICIAL MEMBER

Date:-13 .03.2023

Binita, SR.P.S

Copy forwarded to:

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

**ASSISTANT REGISTRAR
ITAT, NEW DELHI**