

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR U.S., JUDICIAL MEMBER**

ITA No.9387/Del/2019
Assessment Year: 2016-17

DCIT Rohtak Circle Rohtak	Vs.	M/s. Micro Turners, Hisar Road, Rohtak- 124001 PAN No.AABFM1796J
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Subhra Jyoti Chakraborty, CIT DR
Respondent by	Sh. Lalit Mohan, CA Sh. Parth Singhal, CIT DR

Date of hearing:	10/01/2024
Date of Pronouncement:	10/01/2024

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A), Rohtak dated 27.09.2019 pertaining to A.Y. 2016-17.

2. The grievance of the revenue reads under :-

“1. On the facts and in the circumstances of the case the Ld.CIT(A) has erred in law and in facts in deleting ground of appeal

related to addition of Rs. 1,06,36,467/-on account of taxable units of the assessee showing lesser NP as compared to the tax exempt units and the apportionment of common expenses were not allocated rationally by the assessee in proportion to the turnover of these units.

2. *The Ld.CIT(A) has also erred in law and in facts in deleting ground of appeal related to addition of Rs. 11,06,18,302/- by restricting rate of deduction u/s 801C for Pantnagar unit, Nalagarh unit and Haridwar unit from 100% to 25%, since as per the provisions of the Act the benefit of substantial expansion is applicable for units established after 7th Jan, 2003. Moreover, the decision of the Hon'ble Himachal High Court is not binding on the department, since it is not the jurisdictional High Court. Moreover, as per the information available, the department has filed an appeal before the Hon'ble Supreme Court against the order of the Hon'ble Himachal High Court's decision in the case of M/s Stovekraft India.”*

3. At the very outset the Counsel for the assessee stated that the issues raised by the revenue have been decided by this Tribunal in favour of the assessee since A.Y. 2005-06 to A.Y.2016-17. The Counsel supplied the copies of the orders of the Tribunal.

4. The DR fairly conceded to this.

5. We have carefully considered the orders of the authorities below. We find force in the contention of the revenue. The impugned issues relating to the disallowance on restricting rate of

deduction have been considered by the coordinate Bench in earlier assessment years the last order being for A.Y. 2013-14 and 2014-15 in ITA No. 5110 and 5111/Del/2018. The relevant findings read as under :-

“4. In so far as the learned CIT(A) granting relief to the assessee basing on the orders of the Tribunal for the assessment years 2005-06 and 2009- 10 to 2011-12 is concerned, it remains an admitted fact that the coordinate Bench of this Tribunal decided similar issue in favour of the assessee and the Revenue does not dispute the same. It also remains an admitted fact that subsequently on verification, learned Assessing Officer found that the assessee is maintaining separate books of account. Since this ground remains covered by the orders of Tribunal for the earlier assessment years, the Revenue fairly concedes the position. Consequently, we do not find any illegality or irregularity in the findings of the Id. CIT(A) and while upholding the same, we dismiss first ground of appeal.

5. So far as second ground of appeal is concerned, it relates to deletion of addition of Rs. 10,55,91,371/- by restricting the rate of deduction u/s. 80IC of the Income-tax Act, 1961 for Pantnagar Unit from 100% to 25% holding that the benefit of substantial expansion is applicable for the units established after 7th June, 2003. On this aspect, the assessee places reliance on the decision of Hon'ble Apex Court in the case of PCIT vs. Arham Softronics, 412 ITR 623 (SC), wherein it has been held that in case of substantial expansion is carried out as defined in clause (ix) of sub-section (8) of section 80IC by such an undertaking or enterprise, within the period of 10 years, the said previous year, in which the substantial expansion is undertaken would become the initial assessment year and from that

assessment year, the assessee shall be entitled to 100% deduction of the profits and gains. In view of this binding precedent of Hon'ble Apex Court, we hold that the assessee is entitled to claim of 100% deduction and the Id. CIT(A) rightly allowed the same. Consequently, ground No. 2 is also dismissed. Accordingly, the appeal of the Revenue for the assessment year 2013-14 has to be dismissed.

6. Since the grounds raised in appeal for the assessment year 2014-15 are substantially similar in the same set of facts, our decision in appeal for A.Y. 2013-14 shall equally apply in appeal of Revenue for A.Y. 2014-15 also.”

6. On finding parity of facts respectfully following the decision of the coordinate Bench (supra) we decline to interfere with the findings of the CIT(A). The appeal of the revenue is dismissed.

7. Decision announced in the open court on 10.01.2024.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

NEHA

Date:- 10.01.2024

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI