

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ, चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, CHANDIGARH

BEFORE SHRI SANJAY GARG, JUDICIAL MEMBER

आयकर अपील सं./I.T.A. No. 529/CHD/2023

निर्धारण वर्ष / Assessment Year : 2012-13

UPS Inverter.Com Vill. Nariyal, Near Sector-4, Parwanoo, (H.P.)	बनाम	Deputy Commissioner of Income Tax, Circle Pawnaoo (Now, ITO- Parwanoo)
स्थायी लेखा सं./PAN NO: AABFU 7064R		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

(PHYSICAL HEARING)

निर्धारित की ओर से/Assessee by : Shri. Manoj Kumar, C.A.

राजस्व की ओर से/ Revenue by : Dr. Ranjeet Kaur, Sr. D.R.

सुनवाई की तारीख/Date of Hearing : 13.11.2024

उद्घोषणा की तारीख/Date of Pronouncement : 09.12.2024

**आदेश/Order**

The present appeal has been preferred by the assessee against the order passed by the Id. Commissioner of Income Tax, Appeal National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as the "Ld. CIT(A)] dated 20.06.2023 for the Assessment Year: 2012-13. The assessee in this appeal is aggrieved by the action of the Id. CIT(A) in confirming the penalty levied by the Assessing Officer u/s 271(1)(c) of the Income Tax Act, 1961.

2. The brief facts of the case are that the assessee claimed deduction u/s 80IC of the Income Tax Act on account of substantial expansion of the manufacturing unit. However, the same was denied by the Assessing Officer (hereinafter referred to as the “AO”) on the technical ground that once a deduction has been claimed by the manufacturing unit for first 5 years, then subsequently deduction @100% cannot be claimed on account of substantial expansion holding that there cannot be two ‘initial assessment years’ for calculating the percentage of deduction. The Ld. AO imposed the penalty u/s. 271(1)(c) of the Act, in respect of the aforesaid disallowance made by him.

3. The issue relating to claim of deduction @ 100% u/s. 80IC on substantial expansion travelled up to the Hon’ble Supreme Court in the case of Pr. CIT v. Aarham Softronics 2019-ITOL 73 (SC)-IT-LB. The Hon’ble Supreme Court has decided the issue in favour of the assessee and has held that the assessee is entitled to the deduction u/s 80IC of the Income Tax Act on substantial expansion

@100% and that 'initial year' to be taken is the year in which such substantial expansion was undertaken. Since the issue was debatable and which has been finally decided in favour of the assessee and there is no element of furnishing any particulars of income or of concealment of income, therefore, there is no justification for levy of impugned penalty. The same is ordered to be deleted.

4. In the result, the appeal of the assessee stands allowed.

Order pronounced on 09.12.2024.

Sd/-

**(SANJAY GARG)**  
**Judicial Member**

**Dated :** 09.12.2024

"GP/Sr.PS."

आदेशकीप्रतिलिपिअग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त/ CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयआधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
5. गार्डफाईल/ Guard File

आदेशानुसार/ By order,  
सहायकपंजीकार/ Assistant Registrar

