

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI**

श्री एबी टी वर्की, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI ABY T VARKEY, HON'BLE JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, HON'BLE ACCOUNTANT MEMBER**

आयकरअपीलसं./ITA Nos.: **658 & 656/Chny/2022**

निर्धारण वर्ष / Assessment Years: 2012-13 & 2013-14

Byrappareddy Srikanth,
Flat No. 504, Swarnamukhi
Towers, K.R. Nagar, Near
Mango Market, Tirupati,
Andhra Pradesh- 517 503.

[PAN:AMIPS-9416-Q]

(अपीलार्थी/Appellant)

अपीलार्थी की ओर से/Appellant by

प्रत्यर्थी की ओर से/Respondent by

सुनवाई की तारीख/Date of Hearing

घोषणा की तारीख/Date of Pronouncement

v. The Income Tax Officer,
Non Corporate Ward -14(2),
[presently Non Corporate Ward -
19(4)],
Chennai - 600 034.

(प्रत्यर्थी/Respondent)

: None

: Ms. R. Anita, Addl. CIT

: 28.10.2024

: 11.12.2024

आदेश / O R D E R

PER S. R. RAGHUNATHA, ACCOUNTANT MEMBER:

These appeals filed by the assessee are directed against the common order passed by the learned Commissioner of Income Tax (Appeals)-16, Chennai, dated 10.06.2022 and pertains to assessment years 2012-13 & 2013-14.

2. The grounds of appeal raised by the assessee for the assessment year 2012-13 are as under:

1 *The Ld.CIT(A) failed to appreciate that the order of assessment dated 31.03.2015 passed u/s.143(3) r.w.s 144 by the Assessing Officer is without jurisdiction, time barred and invalid.*

2 *The Ld.CIT(A) is not justified in confirming the disallowance of Rs.49,63,600/- made by the Assessing Officer u/s.80JJA of the Act.*

3 *Without prejudice to Ground Numbers 1 & 2, the Ld.CIT(A) ought to have called for remand report from the Assessing Officer.*

4 *The appellant craves for the permission of the Hon'ble Income Tax Appellate Tribunal add, delete or amend the grounds of appeal hereinabove before or during the course hearing of the instant appeal."*

3. The brief facts of the case are that, the assessee is an individual carrying on the business of collecting, processing of bio-degradable waste and supply of bio fuel for power plants and other areas of power generation. The assessee has filed his return of income for the assessment year 2012-13 on 24.02.2014, admitting a nil income after claiming deduction u/s. 80JJA of the Act for an amount of Rs.49,63,600/-. The case was selected under CASS for the reason that the assessee has claimed large deduction under Chapter VIA. The statutory notices were issued to the assessee. However, the assessee did not respond to any of the notices and hence, the order was passed by the Assessing Officer u/s. 143(3) r.w.s. 144 of the Act on 31.03.2015 by rejecting the deductions claimed u/s. 80JJA of the Act for want of evidences by holding as under:

"5. As the assessee failed to comply with all the terms of the notice issued under sub-section (1) of the Act section 142 and also to the terms of notice issued u/s. 143(2), the assessment is completed ex-parte u/s. 144 of the Act.

The assessment is completed disallowing the 80JJA deduction claimed.

Computation of total income

Returned income	NIL
Assessed Income	Rs.49,63,600

Aggrieved by the order of the Assessing Officer, the assessee preferred an appeal before the Id.CIT(A)-16, Chennai.

4. During the appellate proceedings before the Id.CIT(A) the assessee stated that he has collected bio-degradable waste like Bengali gram, Castrol, channa husk, coir waste, groundnut husk, rice husk, paddy husk, poultry waste, sun flower husk, sunflower waste, wood dust, wood husk, corn waste and bagasse and processed and treated with a specific calorific value for using it in power generation. This process does not require the plant and machinery and majority of the cases, these processes are carried out physically with the human intervention and the output is dried up in the open space by exposing to sun light. Further, the assessee explain that the whole process is eco-friendly and contributing to the man kind by avoiding carbon emissions and addressing the much talked about the serious climate change issues. Further, the assessee

explained the process of making bio-degradable fuel as separation, collection, logistics, drying, cleaning, chopping and shredding, saw milling, chipping and fuel mixing. By following above process, the assessee is converting bio-waste into useful energy source and hence, eligible for deduction u/s. 80JJA of the Act. Further, the assessee stated that he had satisfied all the conditions mentioned in section 80JJA of the Act and accordingly eligible to claim deduction u/s. 80JJA of the Act beyond any doubt. Therefore, the assessee pleaded for setting aside the order of the Assessing Officer by deleting the denial of deduction u/s. 80JJA of the Act. However, the Id.CIT(A) was not convinced with the submissions made by the assessee and hence, confirmed the addition made by the Assessing Officer by holding as under:

"6.3 I have considered the matter. It is seen that in course of assessment proceeding, no documentary evidences in support of claim of deduction was filed before the AO. Even in course of appeal proceeding, no single shred of documentary evidence was filed in support of claim of deduction. In the written submission, the appellant narrated the processes involved in his alleged undertaking and why the same was eligible for deduction u/s 80JJA. But the fact is that no single paper evidencing the actual process being carried out by assessee has been furnished. Mr. Naveen, the accountant who attended the hearing stated that the premises of assessee was totally gutted by fire sometime in 2014. He was also took pain to explain about the tax paying capacity of assessee. All taken, but the fact has to be seen from record. Assessee had claimed deduction of Rs.49,63,600/- under section 80JJA. To earn that much of profit there had to be substantial turnover. The turnover must have exceeded Rs.60 lakh

and assessee should have been liable for tax audit also. It is not credible that each and every piece of paper regarding carrying of business eligible for deduction under section 80JJA had been wiped out by fire at the premises. It is, not credible that no piece of record regarding business was available at residential premises of assessee which was not affected by fire; At least some banking documents should also have been there evidencing transactions allegedly carried out. Due to complete dearth of evidence, the claim of assessee, I am afraid, cannot be entertained.

6.3.1 In one part of the submission, the assessee requested that the matter should be remanded to the AO. This request could have been entertained had some new evidences which could not be filed before the AO were furnished before me. But as no evidences regarding allowability of deduction under section 80JJA had been furnished, the request is rejected and ground is dismissed."

Aggrieved by the order of the Id.CIT(A), the assessee preferred an appeal before us.

5. At the time of hearing, none appeared for the assessee.

6. Per contra, the Id.Sr.DR, stated that since the assessee has not shown any kind of plant and machinery and other evidences to show that the conditions prescribed u/s. 80JJA of the Act has been followed to claim the deduction and hence, the appeal of the may please be dismissed.

7. We heard the Id.Sr.DR and gone through the orders of the lower authorities. We note that the orders for the

assessment years 2012-13 and 2013-14 have been passed by disallowing the claim of deduction u/s.80JJA of the Act by the Assessing Officer without the participation of the assessee in the assessment proceedings. The Id.CIT(A) also dismissed the appeal of the assessee by confirming the orders of the Assessing Officer for the assessment year 2012-13, without calling for a remand report from the Assessing Officer based on the submissions made by the assessee. Further for the assessment year 2013-14, the Id.CIT(A) has deleted the disallowance of the expenditure made by the Assessing Officer and confirmed the denial of deduction u/s.80JJA of the Act, which has been claimed by the assessee, without calling for a remand report from the Assessing Officer as sought by the assessee. Since, the assessee's claim for verification of documents, evidences in support of the claim of deduction u/s.80JJA by the AO has not been considered in the appellate proceedings and confirmed the disallowance of deduction u/s.80JJA of the Act for the both the Assessment years, we deem it fit to remit the issue back to the file of the Assessing Officer for fresh adjudication by setting aside the orders of the Id.CIT(A) for the assessment years 2012-13 and 2013-14. In the interest of natural justice and fair play, we direct the

Assessing Officer to give an opportunity to the assessee to furnish all the details, documents and evidence before adjudication. Needless to say, assessee to be diligent and file written submissions and relevant documents if advised so.

8. In the result, appeals filed by the assessee for both the assessment years are allowed for statistical purposes.

Order pronounced in the open court on 11th December, 2024 at Chennai.

Sd/-

(एबी टी वर्की)
(ABY T VARKEY)

न्यायिक सदस्य/**Judicial Member**

Sd/-

(एस.आर.रघुनाथा)
(S. R. RAGHUNATHA)

लेखा सदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 11th December, 2024

JPV

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT – Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF