

आयकर अपीलीय अधिकरण, चण्डीगढ़ न्यायपीठ "ए", चण्डीगढ़  
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "A", CHANDIGARH

HEARING THROUGH: PHYSICAL MODE

श्री विक्रम सिंह यादव, लेखा सदस्य एवं श्री परेश म. जोशी, न्यायिक सदस्य  
BEFORE: SHRI. VIKRAM SINGH YADAV, AM & SHRI. PARESH M. JOSHI, JM

आयकर अपील सं. / ITA NO. 595/Chd/2023

निर्धारण वर्ष / Assessment Year : 2012-13

M/s Brooks Laboratories Limited Village Kishanpura, Nalagarh Road, Baddi, Ditt. Solan	बनाम	The Asst. CIT Circle, Panchkula
स्थायी लेखा सं./PAN NO: AACCB5316P		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारित की ओर से/Assessee by : Shri Ashwani Kumar, C.A  
राजस्व की ओर से/ Revenue by : Shri Vivek aradhan, Addl. CIT  
सुनवाई की तारीख/Date of Hearing : 15/01/2025  
उद्घोषणा की तारीख/Date of Pronouncement : 28.01.2025

**आदेश/Order**

**PER VIKRAM SINGH YADAV, A.M. :**

This is an appeal filed by the Assessee against the order of the Ld. CIT(A)/NFAC, Delhi dt. 14/08/2023 pertaining to Assessment Year 2012-13.

2. In the present appeal, the Assessee has raised the following grounds of appeal:

*"That order passed u/s 250(6) of the Income Tax Act, 1961 by the Learned Commissioner of Income Tax (Appeals), NFAC, Delhi is against law and facts on the file in as much as NFAC was not justified to arbitrarily uphold the action of the Learned Assessing Officer in not allowing deduction u/s 80-IC claimed at Rs. 27,66,772/- @ 30% on interest income amounting to Rs. 92,22,575/-."*

3. Briefly, the facts of the case are that the assessee has filed its original return of income declaring total income at NIL which was selected for compulsory scrutiny and therefore, the assessment proceedings were completed and order was passed under section 143(3) dt. 30/03/2015 wherein the assessed income was determined at Rs. 37,23,67,180/-. Thereafter, the case

of the assessee was reopened by issuing notice under section 148 dt. 13/12/2016 and in response to the notice, the assessee filed its return of income reiterating the earlier return and thereafter, after issuing notice under section 143(2) and calling for the information/explanation, the AO disallowed a sum of Rs. 27,66,772/- on account of excess claim of deduction under section 80IC of the Act.

4. As per reasons recorded before issuance of notice for reopening the matter, the AO has held that the assessee was allowed deduction of Rs. 2,51,15,969/- under section 80IC on gross total income of Rs. 8,37,19,897/- which include an amount of Rs. 92,22,575/- on account of interest on FDR's and miscellaneous receipt which was not directly attributable to the manufacturing activity and therefore the excess deduction of Rs. 27,66,772/- being 30% of Rs. 92,22,575/- has escaped assessment. During the course of reassessment proceedings, the assessee was directed to file the necessary justification in support of the said claim.

5. In its submissions, the assessee submitted that it has earned interest on FDR amounting to Rs. 90,04,826/-, miscellaneous receipt of Rs. 1,93,249/- and Rs. 24,500/- on account of product approval. It was submitted that interest earned on FDRs is on account of margin money kept with the bank in form of fixed deposit and the amount kept in escrow account. It was submitted that the fixed deposit were kept as security at the time of sanction of various credit facilities like letter of credit and bank guarantee as LC's were required for purchase of raw material and bank guarantee for supply of material to Government institutions. Hence interest received from the bank is directly relatable to the business and eligible for deduction under section 80IC of the Act. In respect of amount kept in escrow account it was submitted that during the year, the assessee made a public issue for setting up a new unit at Vadodara and received funds for the same. However restriction was imposed by the SEBI for

usage of funds received from Public Issue and accordingly, the assessee has to keep amount in FD (Escrow account). It was submitted that as per the direction of the SEBI, the assessee was not allowed to use the funds raised for the purpose of business till further clearance from SEBI. It was submitted that the FDR was not made out of surplus funds but indeed were kept as a compulsion on account of restriction imposed by SEBI and thus the interest received from the bank on account of money kept in Escrow Account was directly related to the assessee's business and eligible for deduction under section 80IC of the Act. In respect of income under the head "Misc. receipt, it was submitted that it majorly includes income on account of packaging material. It was submitted that the assessee provides the weighing scale to the parties who are involved in packing material and the amount which is charged from them for use of weighing scale is credited to Misc. income. It also includes the amount which is deducted from the parties involved in packing where the packing is not proper. It also includes amount recovered from employees on account of short notice / expenses at the time of full and final settlement which are routine business receipt and directly related to business activities of the assessee. In respect of product approval, it was submitted that the assessee is engaged in manufacturing of pharmaceuticals and for every product, approval has to be obtained from Drug Authorities and the product approval fee of Rs. 24,500/- represents excess amount recovered from parties on account of getting the product approval from Drug Authorities and such income is earned during the course of business and eligible for deduction under section 80IC of the Act.

6. The submissions so filed by the assessee were considered but not found acceptable to the AO. As per the AO, the contention of the assessee that interest received from bank on fixed deposits kept as margin money is income directly relating to the business and is eligible for deduction under section 80IC is totally baseless and lacks merit. It was held that income earned from other

sources is separate from income from business or profession and in no way can be said to arise as income from manufacturing activities. Hence deduction under section 80IC cannot be allowed on other income as per the provisions of the Act and amount of Rs 27,66,772/- was disallowed as being not eligible for deduction under section 80IC of the Act.

7. Being aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A) who has since sustained the said disallowance and the findings of the Ld. CIT(A) read as under:

*"The first ground raised by the appellant is that the Assessing Officer erred in making addition of Rs.27,66,772/- by disallowing deduction u/s.80IC @30% on interest and miscellaneous income amounting to Rs.92,22,575/- by holding that interest on FDRs held as margin money is not relating to manufacturing activity.*

*2. The appellant during the appeal proceedings has contended that during the financial year relevant to the impugned assessment year, the appellant earned interest on FDR amounting to Rs. 90,04,826/-, which consists of interest earned on FDR held as margin money amounting to Rs.65,16,794/- and interest earned on FDR kept in Escrow Account of Rs.24,88,032/-. The appellant further stated that the Fixed Deposits kept as margin money security at the time of sanction of various credit facilities like letter of credit and bank guarantee as LC's were required for purchase of raw material and bank guarantee for supply of material to government institutions, hence interest received from the bank on amount kept as margin money amounting to Rs. 65,16,794/- is income directly relating to the business and is eligible for deduction u/s 80IC. In respect of interest of Rs.24,88,032/- earned on FDR kept in Escrow Account, the appellant contended that as per the direction of SEBI, the amount received from public issue for setting up new unit was kept in Escrow Account and the interest earned on these FDR's is directly linked to the business activities of the appellant and therefore it is in the nature of business income. The appellant further contended that the issue of allow ability of deduction u/s. 80IC on interest earned on Fixed Deposits has been decided by the Hon'ble ITAT in assessee's own case for the A.Y. 2011-12 in favour of the appellant.*

*3. It is seen from the submission made by the appellant that FDR was kept as security at the time of sanction of various credit facilities like letter of credit and bank guarantee as LC's were required for purchase of raw material and bank guarantee for supply of material to government institutions. Here the issue is whether the interest earned out of fixed deposits is connected to the manufacturing activity and form an integral part of the profits derived the industrial unit. The Hon'ble ITAT, Chandigarh Bench "A", Chandigarh in appellant's own case for the A.Y. 2011-12 has held that the FDR was not made on account of any surplus of idle fund available with the appellant but the FDR was made for the purpose of business and therefore, the interest received is directly related to*

the business of industrial undertaking and thus eligible for deduction u/s.80IC of the Act. In this regard, the Hon'ble ITAT relied upon the decision in the case of Jagdish Prasad wherein it has been held that interest earned on FDRs was derived from the business of Industrial Undertaking and thus eligible for deduction 80IC of the Act. However, it is pertinent to mention here that the Hon'ble ITAT has not considered the decision of the Hon'ble Supreme Court in the case of Conventional Fasteners v. CIT reported in 256 Taxman 61(SC) wherein the Hon'ble Supreme has settled the issue in respect of allowability of deduction u/s.80IC on interest income earned on fixed deposits by dismissing the SLP filed against the order of the Hon'ble High Court of Uttarkhand. The Hon'ble High Court in this case held that under section 80-IC, a person, an enterprise or on undertaking is entitled to take benefit of said section only insofar as it carries on business, which is mentioned in section 80-IC(2) and derives profits and gains there from and, thus, when interest income earned from FD kept as security and as a business perquisite had nothing to do with carrying on of business of manufacture and sale of electric meter, assessee was not entitled to section 80-IC deduction. Thereafter the assessee filed an SLP against said decision which was dismissed by the Apex Court. It appears that the decision of the Hon'ble Supreme Court was not pointed out to the Hon'ble ITAT during the appellate proceedings, inspite of the fact that this decision was available at that point of time. It is well settled that Hon'ble Tribunal is bound by the decision of the Hon'ble Supreme Court and since it was not placed before the Hon'ble ITAT, the decision was rendered by the Hon'ble ITAT in favour of the appellant. Since the facts in the appellant's case and in the case of Conventional Fasteners v. CIT decided by the Hon'ble Supreme Court is identical, respectfully following the decision of the Hon'ble Supreme Court, the deduction u/s.80IC on the interest on Fixed Deposits of Rs.65,16,794 is not eligible to the appellant and therefore, the decision the Assessing Officer in disallowing the deduction u/s.80IC on the interest on Fixed Deposit is confirmed. Accordingly, the ground raised by the appellant is rejected.

4. The second issue is claim of deduction u/s.80IC of the Act on the interest received amounting to Rs.24,88,032/- earned on FDR kept in Escrow Account. From the submission made by the appellant it is noticed that the money received from Public Issue was kept by the appellant in Escrow Account as per the direction of the SEBI. The appellant had come up with the Public Issue for starting a new manufacturing unit at Gujarat and therefore, the appellant contended that the money kept in Escrow Account has no nexus with the business income of the appellant as the business in the unit was not yet commenced. Further, the interest earned out of the fixed deposit made from the Public Issue is not connected to the manufacturing activity and do not form an integral part of the profits derived from industrial unit and therefore, the appellant is not eligible for deduction u/s.80IC of the Act. Accordingly, the Assessing Officer has correctly disallowed the deduction u/s.80IC of the Act on the interest of Rs.24,88,032/-. Thus, the ground raised by the appellant in respect of disallowance of deduction u/s.80IC on interest income is dismissed.

5. As for the issue of deduction u/s.80IC on income from Product Approval Fee, it is seen that the issue has been decided by the Hon'ble ITAT in assessee's own case for the A.Y. 2011-12 against the appellant. Accordingly, the issue is decided against the denial of deduction u/s.80IC on this income is upheld.

*6. The last issue raised by the appellant is disallowance deduction u/s.80IC on miscellaneous receipts. The appellant during the appeal proceedings stated that the miscellaneous income majorly includes income on account of packing material. The appellant further stated that it provides the weighing scale to the parties who are involved in packing material for the assessee and the amount which is charged from them for use of weighing scale is credited to Miscellaneous Income and it also includes the amount which is deducted from the parties involved in packing in case the packing is not proper. As per the appellant these are routine business income and are directly related to the business activities of the assessee. From the explanation given by the appellant the major income consists of income received from providing weighing scale to the parties who are involved in packing material for the appellant. This clearly shows that the receipts does not have any nexus with manufacturing or production activities carried out by the appellant. This income is purely a rental income for using the weighing scale and therefore, it cannot be said the income is derived from business activities carried out by the appellant. Thus, the Assessing Officer has correctly disallowed the deduction u/s.801C claimed on this receipt. Accordingly, the ground raised by the appellant is dismissed."*

6. Against the said findings, the assessee is in appeal before us. During the course of hearing, the Ld. AR submitted that the assessee has taken an additional ground of appeal whereby it has challenged the initiation of proceedings under section 148 of the Act. It was submitted that the same is purely a legal ground and in light of the Hon'ble Supreme Court decision in case of NTPC vs. CIT reported in 229 ITR 383, the same may be admitted. In this regard, it was submitted that the matter relating to claim of deduction under section 80IC was thoroughly examined during the course of original assessment proceedings completed under section 143(3) of the Act and therefore there is no basis for the AO to reopen the assessment on the issue which has already been thoroughly examined during the course of original proceedings.

7. Per contra, the Ld. DR submitted that there is nothing on record that the matter relating to claim of deduction in respect of interest on FDRs and other miscellaneous receipt was subject matter of examination by the AO during the course of original proceedings and therefore, there is no basis in the contention advanced by the Ld. AR that the matter was examined and therefore the grounds so raised by the assessee deserves to be dismissed.

8. We have heard the rival contentions and perused the material available on record. It is no doubt true that the assessee was subject to assessment u/s 143(3) of the Act. However, there is nothing on record that the matter relating to claim of deduction in respect of interest on FDRs and other miscellaneous receipt was subject matter of examination by the AO during the course of original assessment proceedings, therefore, where the Assessing officer has recorded his satisfaction that the assessee has been allowed excess deduction of Rs 27,66,772/- being interest on FDRs and other receipts under section 80IC and the income to that extent has escaped assessment, we don't find any illegality in assumption of jurisdiction by the AO u/s 147 of the Act. The additional ground so raised is thus dismissed.

9. On merits, the Ld. AR submitted that in so far as the matter relating to interest on FDRs is concerned, the same is covered in favour of the assessee by the decision of Coordinate Bench in assessee's own case in ITA No. 877/Chd/2016 dt. 18/10/2018 pertaining to A.Y. 2011-12. In so far as income from product fee approval is concerned, it was submitted that the same has been decided against the assessee by aforesaid order of the Tribunal. Further regarding miscellaneous receipt, the Ld. AR did not press the claim for allowance of deduction under section 80 IC of the Act.

10. Per contra, the Ld. DR submitted that even though the Coordinate Bench in assessee's own case for A.Y. 2011-12 has decided in favour of the assessee however, there is a subsequent decision of Hon'ble Supreme Court in case of Conventional Fastners Vs. CIT reported in 256 Taxmann 61 (SC) wherein the Hon'ble Supreme Court has settled the issue in respect of allowability of deduction under section 80IC on interest income earned on fixed deposits and following the same, the Ld. CIT(A) has dismissed the grounds of appeal so taken by the assessee. Further, he relied on the findings of the Ld. CIT(A) and submitted that even on merits, the appeal of the assessee deserve to be dismissed.

11. We have heard the rival contentions and perused the material available on record. The matter under consideration relates to whether receipts in form of interest on fixed deposits held as margin money amounting to Rs 65,16,794/-, interest on fixed deposits kept in Escrow account amounting to Rs 24,88,032/- and other receipts amounting to Rs 217,749/- are eligible for deduction u/s 80IC of the Act.

12. As far as eligibility of interest on FDRs kept as margin money is concerned, the Id AR has relied on the Coordinate Bench decision in assessee's own case whereas the Id CIT(A) has referred to subsequent decision of Hon'ble Supreme Court in case of Conventional Fasteners (supra) which has not been considered by the Coordinate Bench while deciding the matter in case of the assessee. In the said case, the Hon'ble Supreme Court has dismissed the SLP filed against the order of the Hon'ble High Court of Uttarkhand. The Hon'ble High Court in that case held that under section 80-IC, a person, an enterprise or an undertaking is entitled to take benefit of said section only insofar as it carries on business, which is mentioned in section 80-IC(2) and derives profits and gains there from and, thus, when interest income earned from FD kept as security and as a business perquisite had nothing to do with carrying on of business of manufacture and sale of electric meter, assessee was not entitled to section 80-IC deduction. The Id CIT(A) has further held that the facts in the assessee's case and in the case of Conventional Fasteners decided by the Hon'ble Supreme Court is identical and following the same, he has held that assessee is not eligible for deduction u/s 80IC on the interest on Fixed Deposits. Nothing has been brought on record to rebut the findings of the Id CIT(A) as to factual dissimilarity of the assessee's case with aforesaid decision in case of Conventional Fasteners relied upon by the Id CIT(A) and in view of the same, we do not find any infirmity in the findings of the Id CIT(A) and the same is hereby confirmed.

13. Now, coming to the interest on fixed deposits kept in Escrow account, we agree with the findings of the Id CIT(A) that as the business in the new manufacturing unit was not yet commenced, the question of interest earned out of the fixed deposit made out of proceeds from the Public Issue and connection thereof with the manufacturing activity doesn't arise for consideration and thus, the same do not form an integral part of the profits derived from industrial unit and therefore, the assessee is not eligible for deduction in respect of interest on fixed deposits so placed u/s. 80IC of the Act.

14. As far as eligibility of other receipts is concerned, the same is covered against the assessee by earlier order of the Coordinate Bench referred supra and even not pressed by the Id AR during the course of hearing. In view of the same, the findings of the Id CIT(A) in this regard are confirmed.

15. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 28.01.2025

Sd/-

परेश म. जोशी  
(PARESH M. JOSHI)  
न्यायिक सदस्य / JUDICIAL MEMBER  
MEMBER

Sd/-

विक्रम सिंह यादव  
(VIKRAM SINGH YADAV)  
लेखा सदस्य/ ACCOUNTANT

**AG**

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,  
सहायक पंजीकार/ Assistant Registrar