

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “DB” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.36/DDN/2023
Assessment Year: 2018-19

M/s. Tanishka Engineering, Shiv Ganga Industrial Estate, Khasra-65, Bhagwanpur, Roorkee, Hardwar, Uttarakhand	Vs.	Principal Commissioner of India Tax, Dehradun
PAN :AAMFT1522G		
(Appellant)		(Respondent)

Assessee by	Sh. Mayank Patwari, Adv.
Department by	Sh. S.K. Chaterjee, CIT(DR)

Date of hearing	17.03.2025
Date of pronouncement	16.05.2025

ORDER

PER SATBEER SINGH GODARA, JM

This assessee’s appeal for assessment year 2018-19, arises against the Principal Commissioner of Income Tax [in short, the “PCIT”], Dehradun’s DIN and order no. ITBA/REV/F/REV5/2022-23/1051158962(1), dated 23.03.2023, involving proceedings under sections 143(3) of the Income-tax Act, 1961 (hereinafter referred to as ‘the Act’).

2. Heard both the parties at length. Case file perused.
3. It emerges during the course of hearing that the learned PCIT's revision directions issued under section 263 of the Act hold the Assessing Officer's section 143(3) regular assessment framed on 1st February, 2021, as an erroneous one causing prejudice to the interest of the Revenue, inter alia, on twin counts i.e. the latter had not properly examined the assessee's case regarding its section 80IC deduction in scrutiny and it is not entitled for the same for the precise reason that the earlier proprietary concern has now been converted to a partnership firm; respectively. Coupled with this, the Revenue's further case is that the assessee had also introduced used plant and machinery in the alleged eligible undertaking, and, therefore, the case is hit by section 80IC(4) of the Act as well.
4. It is in this backdrop that we note from a perusal of the case file that the assessee herein a partnership firm w.e.f. 01.03.2017; which had been established as a proprietary concern having proprietor M/s. Vipul Chandra; in FY 2009-10, followed by commencement of its production w.e.f. 09.12.2009 in the notified area at Roorkee. There is further no dispute between the parties

that the assessee had started claiming the impugned section 80IC deduction from assessment year 2010-11 onwards which has been duly accepted in all the intervening assessment years.

5. Now comes the issues(s) between the parties. The Revenue's first and foremost vehement contention in support of the learned PCIT's impugned revision directions is that the Assessing Officer had not carried out any detailed inquiries whilst accepting the assessee's above claim. We find no merit in the Revenue's instant first and foremost argument as a perusal of the case file indicates at pages 1 to 36 onwards that it was an instance of a "limited" scrutiny for examining the above section 80IC deduction issue only. And that the Assessing Officer firstly issued his section 143(2) notice dated 22.09.2019 followed by yet another section 142(1) notice dated 17.12.2020 (pages 11 to 12), which stood duly replied on the very specific issue. That being the case, we are of the considered view that the Assessing Officer's scrutiny assessment could not be termed as having either not examined the above section 80IC issue or that of an inadequate inquiry, as the case may be.

6. The Revenue's next argument is that this assessee has been converted from a proprietary concern to a partnership firm (supra) formed in the relevant previous year which disentitles it from claiming the impugned deduction in light of (2011) 10 taxmann.com 246 (Del), ACIT Vs. Goel Udyog. We find no substance in the Revenue's instant second argument in light of (2011) 15 taxmann.com 80 (P&H), CIT Vs. Mega Packages having decided the very issues in assessee's favour and against the department. That being the case, we hold that judicial discipline requires us to follow hon'ble higher judicial forum's adjudication than that of a learned coordinate bench. We accordingly reject the Revenue's instant second substantive argument in very terms.

7. So far as the Revenue's last argument invoking section 80IC(4) is concerned, it could hardly dispute that the same comes into play only in case the eligible unit is formed either by splitting up or reconstruction of a business already in existence or transfer to a new business of machinery or plant previously used for any purpose, as the case may be. We hold that none of these conditions are satisfied in the assessee's instant case as the facts herein do

not fall thereunder. The Revenue's instant last argument also fails in very terms.

8. We accordingly, conclude in light of our above detailed discussion and as per Malabar Industrial Co. Ltd. Vs. CIT, (2000) 243 ITR 83 (SC) the learned PCIT has erred in law and on facts in revising the Assessing Officer's above regular assessment in his impugned section 263 revision direction under challenge, stand reversed therefore.

9. This assessee's appeal is allowed.

Order pronounced in the open court on 16th May, 2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 16th May, 2025.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi