

आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ 'C' अहमदाबाद।
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, AHMEDABAD
BEFORE S/SHRI SANJAY GARG, JUDICIAL MEMBER
AND
MAKARAND V.MAHADEOKAR, ACCOUNTANT MEMBER
ITA No.1543/Ahd/2025
Asstt.Year : 2017-2018

Diamines & Chemicals Ltd. Plot No.13, PCC Area PO Petrochemicals Vadodara. PAN : AAACD 5356 R	Vs.	ACIT, Cir.1(1)(1) Vadodara.
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(Applicant)	(Responent)
Assessee by :	Shri Vimal Desai, AR
Revenue by :	Shri Rameshwar P. Meena, Sr.DR

सुनवाई की तारीख/Date of Hearing : 30/09/2025
घोषणा की तारीख /Date of Pronouncement: 07/10/2025

आदेश/O R D E R

PER MAKARAND V.MAHADEOKAR, AM:

This appeal is filed by the assessee against the order dated 16.06.2025 passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as "CIT(A)"] arising out of the assessment framed under section 143(3) of the Income Tax Act, 1961 [hereinafter referred to as "the Act"] by the Assistant Commissioner of Income Tax, Circle 1 (1)(1), Vadodara [hereinafter referred to as "Assessing Officer or "AO"] for the Assessment Year 2017-18.

2. Facts of the Case

2.1 The brief facts leading to the present appeal are that the assessee is a company engaged in the business of manufacturing and trading of chemicals and is also operating windmills situated in Gujarat and Maharashtra for the purpose of generating electricity. The assessee filed its

return of income for the year under consideration on 30.10.2017 declaring a total income of Rs.4,33,69,430/- under normal provisions and Book Profit of Rs.5,55,29,820/- u/s 115JB of the Act. The case of the assessee was selected for scrutiny and assessment was completed under section 143(3) of the Act.

2.2 During the course of scrutiny proceedings, the Assessing Officer examined the accounting and disclosure of revenue from the Kutch windmill. The assessee had reported total revenue of Rs.2,32,08,269/- from three windmills, which included Rs.56,75,193/- from the Kutch unit. However, in the ITR, revenue from windmill operations was shown only at Rs.1,75,33,076/-, thereby excluding the Kutch unit, though deduction under section 80IA was claimed on the profits of all the three units. To reconcile the difference, the AO issued notice under section 142(1). The assessee submitted that revenue as per ROI, when increased by Kutch windmill income and reduced by duty drawback, tallied with Form 3CD figures. It was explained that Kutch windmill revenue was adjusted against power charges in accounts due to the arrangement with MGVCL and, therefore, not shown separately in revenue. The AO, however, observed discrepancies in bills and summaries, inconsistencies in ledger entries and concluded that the netting off suppressed disclosure of income. Applying accrual principles, the AO added Rs.56,75,193/- as revenue from the Kutch windmill and initiated penalty under section 270A.

2.3 On verification of the claim under section 80IA, the AO noticed mismatches of Rs.2,74,402/- between submissions and audited accounts and accordingly reduced the eligible deduction. Further, while determining the rate for captive consumption, the AO rejected the consumer tariff adopted by the assessee and instead applied the average purchase price of GUVNL at Rs.4.40 per unit, thereby restricting the deduction u/s 80IA to Rs.1,64,53,971/- as against Rs.1,88,66,170/- claimed, leading to a disallowance of Rs.24,12,199/-.

2.4 The AO further examined the issue of Central Excise refund received by the assessee. The records revealed that the assessee had obtained refund aggregating to Rs.27,35,544/- pertaining to exports made in Financial Year 2015-16. The assessee explained that the said duty was discharged entirely through utilisation of CENVAT credit and was never debited to the Profit and Loss Account, and therefore the refund did not constitute income but only represented an adjustment of receivable in the Balance Sheet. The AO was not convinced. He observed that, irrespective of the mode of payment, the incidence of excise duty had been borne by the assessee in the course of its export activity. According to the AO, the refund received in the relevant previous year clearly represented a benefit in respect of business and was liable to tax. He accordingly brought the sum of Rs. 27,35,544/- to tax as income of the year and further recorded that the omission to disclose the same rendered the case liable for penalty proceedings under section 270A of the Act.

2.5 On the above adjustments, the AO computed the gross total income at Rs.7,06,46,336/-, allowed deduction u/s 80IA at Rs.1,64,53,971/-, assessed total income at Rs.5,41,92,370/-, and determined book profit u/s. 115JB at Rs.5,55,29,820/-.

2.6 The assessee preferred appeal before CIT(A). In the appeal, the learned CIT(A) examined four aspects that are relevant for the present proceedings. First, on the addition of Rs. 56,75,193/- relating to the Kutch windmill, the assessee produced the quarterly journal vouchers evidencing transfer of wind generation income to the Power Charges ledger along with corresponding credits in the Power Charges account and a further entry of Rs.1,76,108/- to the Wind Generation (Guj.) income account. The learned CIT(A), after considering the ledgers and vouchers placed on record, held that there was no understatement of income and that the assessee had reduced the Power Charges expense by the exact corresponding amount, thereby neutralising the impact on taxable income. The addition of Rs.56,75,193/- was accordingly deleted.

2.7 Secondly, on the mismatch of Rs. 2,74,402/- in the section 80IA working, the learned CIT(A) noted that despite grant of multiple opportunities the assessee did not furnish a complete reconciliation resolving the specific differences identified by the AO. The learned CIT(A) therefore confirmed the reduction of deduction under section 80IA to the extent of Rs. 2,74,402/-.

2.8 Thirdly, as regards the rate to be applied for captive consumption for the Kutch unit, the learned CIT(A) accepted the assessee's plea that the "market value" contemplated by section 80IA(8) should be the price at which the Electricity Board sells electricity to its consumers in the open market. Placing reliance inter alia on the coordinate Bench order in the assessee's own case for an earlier year and on jurisdictional decisions cited, the learned CIT(A) deleted the restriction imposed by the AO and restored the assessee's claim on this count.

2.9 Fourthly, with respect to the Central Excise refund of Rs.27,35,544/- , the learned CIT(A) rejected the assessee's contention that the refund was a balance sheet item and not income. The learned CIT(A) was of the view that, in terms of section 145A as applicable for the year and on general principles, the refund received by the assessee in the relevant year was liable to tax. The addition was therefore upheld. Interest under section 234B was held to be consequential and another ground was dismissed as premature. The result recorded by the learned CIT(A) is that the appeal of the assessee was partly allowed.

2.10 Being dissatisfied, the assessee is in further appeal before us raising following grounds of appeal:

1. *The Learned CIT(A) erred in law by upholding the addition made by the AO in connection with revenue from windmill amounting to Rs. 2,74,402/-*

1.1 *The learned CIT(A) has failed to appreciate that the variation in revenue as per the Profit & Loss Account was due to consideration of incorrect units generated from the Windmill by the learned AO.*

1.2 *The learned CIT(A) fact erred on fact and in law by ignoring the documents placed on record and the facts of the case and merely*

dismissing the grounds on the fact that the submission was incomplete.

2. *The learned CIT(A) erred on fact and in law by upholding addition made by the AO amounting to Rs. 27,35,544/- to the total income of the Appellant with respect to Excise Duty Refund received by the Appellant during the year.*

2.1 *The learned CIT(A) failed to appreciate the fact that the appellant had neither debited the amount paid as excise duty in the Profit and Loss Account nor claimed it as a tax-deductible expense and consequently refund arising from the excise duty was also not offered to tax.*

2.2 *The CIT(A) erred in invoking the provisions of section 145A which would not be applicable in the present case otherwise also it is tax neutral, therefore, does not affect the taxable profit of the appellant.*

Your appellant prays for leave to add, alter, and / or amend / withdraw any and / or all the grounds of appeal adduced above.

3. During the course of hearing before us, the learned Authorised Representative (AR) of the assessee, with reference to the disallowance of Rs.2,74,402/- under section 80IA of the Act, submitted that the difference pointed out by the Assessing Officer in the tabulation at page 10 of the assessment order had arisen on account of minor clerical variations. It was explained that in respect of Unit I (Kutch) and Unit III (Maharashtra – K-495), the difference was solely due to rounding off at the third digit of the per unit rate adopted, while in the case of Unit II (Maharashtra – K-436), the discrepancy had occurred because of a mistake in the figure of actual units of power generated as furnished in the submission before the Assessing Officer. The learned AR drew our attention to the written submissions placed before the learned CIT(A), specifically paragraph 4.5 appearing at page 16 of the paper book, wherein these aspects were duly explained. It was urged that despite such clarification being on record, the learned CIT(A) has failed to consider the same in its proper perspective and has mechanically sustained the disallowance.

3.1 Regarding the addition of Excise Duty Refund, the learned Authorised Representative submitted that the refund represented excise duty paid on export sales of the assessee during FY 2015-16, which was duly accounted for in the Excise Duty Receivable ledger and reflected under the head Short-term loans and advances in the balance sheet of that year. The AR stressed that no part of the excise duty liability was ever debited to the Profit and

Loss account; instead, it was discharged by utilisation of the CENVAT credit balance. Thus, when the refund was received in the impugned year, it was nothing more than a balance sheet adjustment and did not partake the character of income.

4. We have heard the rival submissions and carefully considered the material placed on record. The assessee has challenged, firstly, the action of the authorities below in sustaining disallowance of Rs.2,74,402/- under section 80IA of the Act, and secondly, the addition of Rs.27,35,544/- on account of Central Excise refund.

4.1 In so far as the issue of disallowance of deduction under section 80IA of Rs.2,74,402/- is concerned, we note that the Assessing Officer had pointed out certain differences between the revenue as per the submissions of the assessee and that reflected in the unit-wise Profit and Loss accounts of the three windmill undertakings, namely Rs. 1,191/- in respect of Unit I (Kutch), Rs. 2,59,895/- in respect of Unit II (K-436, Maharashtra) and Rs.13,316/- in respect of Unit III (K-495, Maharashtra). The Assessing Officer therefore concluded that the assessee had claimed deduction on inflated figures and withdrew the deduction to that extent. The assessee, on the other hand, has explained before us that the difference is attributable, in the case of Unit I and Unit III, to rounding off of the third digit of the per unit rate, and in the case of Unit II to a mistake in submission of the number of units generated, which was a factual error in reporting. This explanation, we find, was also placed before the first appellate authority, as appears from the written submission referred to at page 16 para 4.5 of the paper book, but the same has not been dealt with in detail by the CIT(A). In these circumstances, since the explanation furnished is factual in nature and requires verification with the underlying computation sheets and unit records, we deem it appropriate to restore this issue to the file of the Assessing Officer. The Assessing Officer shall examine afresh the reconciliation furnished by the assessee, verify the correctness of the units generated and the rates applied, and thereafter decide the claim of deduction under section 80IA in accordance with law.

4.1 Turning to the issue of addition of Rs.27,35,544/- on account of Central Excise refund, we find that the Assessing Officer proceeded on the footing that the liability for payment of excise duty was borne by the assessee during FY 2015-16 and therefore the refund received in the subsequent year partook the character of income chargeable to tax in AY 2017-18. The assessee, on the other hand, has consistently contended that the duty liability was discharged by utilisation of CENVAT credit balance, no debit was made to the Profit and Loss account, and the refund received was merely an adjustment of the receivable earlier created in the balance sheet, hence revenue-neutral without any impact on the taxable income. The assessee has further relied on the principle that a mere reimbursement or refund of duty already adjusted through input credit cannot be regarded as income unless corresponding debit had been made in the Profit and Loss account. From the assessment order and the submissions reproduced before us, we find that the exact nature of accounting treatment given in FY 2015-16, particularly whether any part of excise duty liability was charged to Profit and Loss account, has not been conclusively established. The CIT(A) has also not undertaken a detailed verification of the assessee's ledger accounts, excise returns and balance sheet disclosures. The question whether the refund represents a revenue receipt taxable in AY 2017-18 or only a balance sheet adjustment thus remains to be determined on facts. We therefore consider it just and proper to remit this issue also to the file of the Assessing Officer. The Assessing Officer shall re-examine the accounting entries of the relevant years, the CENVAT credit utilisation, the excise duty refund orders and the excise returns, and after affording adequate opportunity to the assessee, decide the taxability of the refund strictly in accordance with law.

4.2 Before parting, we may note that the learned Departmental Representative has relied on the orders of the authorities below. However, in view of the factual contentions raised by the assessee which have not

been adequately addressed in the impugned orders, we consider it necessary to restore the issues for proper verification.

5. In the result, both the issues relating to disallowance of deduction under section 80IA of Rs.2,74,402/- and addition of Rs.27,35,544/- on account of Central Excise refund are restored to the file of the Assessing Officer for fresh adjudication in the light of the observations made hereinabove. The Assessing Officer shall afford adequate opportunity to the assessee to furnish necessary reconciliation, documents and evidences and thereafter decide the issues in accordance with law.

Thus, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Court on 7th October, 2025 at Ahmedabad.

Sd/-
(SANJAY GARG)
JUDICIAL MEMBER

Sd/-
(MAKARAND V. MAHADEOKAR)
ACCOUNTANT MEMBER

Ahmedabad, dated 07/10/2025