आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri Ravish Sood, Judicial Member

आ.अपी.सं **/ITA No.1609/Hyd/2025**
(निर्धारण वर्ष/Assessment Year:2020-21)

Valuelabs LLP, Hyderabad. PAN: AAKFV2276K	Vs.	DCIT, Central Circle-8(1), Hyderabad.
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri P. Murali Mohan, CA	
राजस्व द्वारा/Revenue by:	Ms. U. Mini Chandran, CIT-DR	
सुनवाई की तारीख/Date of Hearing:	29/01/2026	
घोषणा की तारीख/Date of Pronouncement:	06/03/2026	

आदेश / **ORDER**

PER. RAVISH SOOD, J.M:

The present appeal filed by the assessee firm is directed against the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, dated 13/08/2025, which in turn arises from the order passed by the Assessing Officer (for short, "AO") under section 143(3) r.w.s 144B of the Income Tax Act, 1961 (for short, "the Act"), dated 27/09/2022 for the Assessment Year (AY) 23/11/2021. The assessee firm has assailed the impugned order of the CIT(A) on the following grounds of appeal:

"1. The order of the Ld. CIT (A) u/s 250 of the Act dt. 13/08/2025 for the AY 2020-21 is erroneous both on facts and in law to the extent the order is prejudicial to the interests of the appellant.

2. The Ld. CIT (A) erred in dismissing the grounds with regard to the issue of receipt of Rs. 1,78,24,800/- towards sale of RECs without considering the facts and circumstances of the case as also the settled position of law.

3. The Ld. CIT (A) ought to have appreciated that the assessee-firm, during the year under consideration, had received an income of Rs. 1,78,24,800/- from the sale of Renewable Energy Certificates (RECs), and had duly offered the same to tax under the provisions of Section 115BBG of the Act.

4. The Ld. CIT (A) ought to have appreciated the fact that the income arising from the sale of RECs falls within the ambit of Section 115BBG of the Income-tax Act, 1961, and is accordingly taxable at the special rate of 10% as prescribed therein.

5. The Ld. CIT(A) ought to have considered the fact that the income derived from the sale of RECs does not form part of 'business income within the meaning of the proviso to Section 2(24)(xviii) of the Act, and therefore, the same cannot be taxed as business income at the normal rate.

6. The Ld. CIT(A) erred in holding that the RECs were issued to the assessee by the Ministry of New and Renewable Energy (MNRE), whereas in fact, RECs are issued as transferable and tradable credit certificates under the provisions of the Electricity Act, 2003.

7. The Ld. CIT (A) ought to have appreciated the fact that the RECS are in the nature of an 'entitlement' granted to the assessee for generating electricity using renewable energy sources during the course of the generation of electricity.

8. The Ld. CIT (A) failed to appreciate the fact that the purpose of carbon credit and RECs are same ie for environment protection and hence, any income earned from sale of RECs can be taxed at concessional rate 10 percent u/s 115BBG of the 9. The Ld. CIT (A) failed to appreciate the fact that, the underlying purpose of both Carbon Credits and RECs is the promotion of environmental protection and sustainability, accordingly to which any income earned from the sale of RECs is eligible to be taxed at the concessional rate of 10% u/s 115BBG of the Act, 1961.

10. The Ld. CIT (A) failed to appreciate that transferable RECs are not a result or incidence of regular business activity but are entitlements granted for reducing carbon emissions and therefore,

treating such income as Profits and Gains of Business or Profession' is incorrect and bad in law.

11. The Ld. CIT (A) erred in upholding that the AO is opinion that such claim of additional deduction cannot be entertained during assessment proceedings, which is bad-in-law.

12. The Ld. CIT (A) ought to have appreciated the fact that as per section 80 IA assessee can get 100% exemption of the profits and gains derived from undertaking engaged in business of generation of power for 10 consecutive years out of 15 years.

13. The Ld. CII (A) ought to have appreciated that the amount received was not in connection with the production or sale of any product, by-product, or the rendering of any service related to the business, and therefore, should not be treated as business income.

14. The Ld. CIT (A) ought to have appreciated the fact that sale of RECs are capital in nature and hence the same cannot be chargeable to tax under the head "Profits and Gains from Business and Profession."

15. The Ld. CIT (A) ought to have appreciated the fact that assessee is eligible for exemption/ deduction even if the same is not claimed in the original or revised return.

16. Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal."

2. Succinctly stated, the assessee firm had e-filed its return of income for AY 2020-21 on 29/01/2021, declaring an income of Rs. 68,66,96,690/-. Subsequently, the case of the assessee firm was selected for scrutiny assessment under CASS for verification of certain issues, viz., (i) double taxation relief under sections 90/91 of the Act; (ii) foreign bank account; and (iii) deduction from total income under Chapter VI-A of the Act.

3. During the course of the assessment proceedings, it was observed by the AO that the assessee firm was engaged in the business of software development, solar power and manufacturing of bio-mass briquettes. Also, the AO observed that the assessee firm was, inter alia, engaged in the business of generating power through renewable sources, and had, during the subject year, earned an income of Rs. 1,78,24,800/- from the sale of "Renewable Energy Certificates" (RECs). The assessee firm in its return of income had offered the income from the sale of RECs to tax under section 115BBG of the Act, i.e., at the concessional rate of 10%. The AO, holding a firm conviction that section 115BBG applied only to "carbon credits" as were specifically defined in the "Explanation" to the said section and did not extend to RECs, declined the assessee's claim for the concessional rate of tax on the income from the sale of RECs, and brought the same to tax as per the normal rates.

4. Aggrieved, the assessee firm carried the matter in appeal before the CIT(A) but without success.

5. The assessee firm aggrieved with the order of the CIT(A), who had upheld the view taken by the AO, has carried the matter in appeal before us.

6. We have heard the Learned Authorised Representatives of both parties, perused the orders of the authorities below and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

7. The controversy involved in the present appeal lies in a narrow compass, i.e., as to whether or not the income from the sale of RECs is liable for tax at the concessional rate of tax contemplated under section 115BBG of the Act, and if not, then whether such income would qualify for deduction under section 80IA of the Act.

8. Coming to the first issue, i.e., the entitlement of the assessee firm for taxing the income from RECs at a concessional tax rate contemplated under section 115BBG of the Act, i.e., @ 10%, we deem it apposite to cull out the said statutory provision, which reads as under:

> "115BBG. (1) Where the total income of an assessee includes any income by way of transfer of carbon credits, the income-tax payable shall be the aggregate of-
>
> > (a) the amount of income-tax calculated on the income by way of transfer of carbon credits, at the rate of ten per cent; and
> >
> > (b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a).

> (2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) of sub-section (1).
>
> **Explanation**. For the purposes of this section, "carbon credit" in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in market at its prevailing market price."

9. On a perusal of the aforesaid section, we find that the same contemplates taxation @ 10% of any income by way of transfer of "carbon credits". The "Explanation" to section 115BBG of the Act defines "carbon credits" to mean, reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases, which is validated by the United Nations Framework on Climate Change (UNFCC) and which can be traded in the market at its prevailing market price.

10. On the other hand, we find that "Renewable Energy Certificates" (RECs) represent one Megawatt hour (MWH) of electricity generated from the renewable energy source and injected into the grid. The RECs are issued under "The Electricity Act, 2003" and "Central Electricity Regulatory Commission (CERC) Regulations". Further, they are neither validated under the UNFCC mechanism nor represent the reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases as contemplated under section 115BBG of the Act.

11. In our view, the definition of "carbon credit" as contemplated in the "Explanation" to section 115BBG of the Act is precise and restrictive. We are of firm conviction that in the matter of taxation, particularly where a concessional tax rate is provided, the provisions must be strictly construed and cannot be extended to any other instrument because both relate broadly to environmental objectives.

12. As the Ld. AR in the course of the hearing of the appeal in his attempt to impress upon us that the RECs are to be given the same meaning as "carbon credits" defined in section 115BBG of the Act, had relied upon certain judicial pronouncements, viz., (i) Commissioner of Income Tax, Chennai vs. Ambika Cotton Mills Ltd (2021) 125 taxmann.com 206 (Madras); (ii) ACIT vs. M/s. Indsil Hydro Power & Manganese Ltd, ITA No.3491/Chny/2018, dated 09/08/2021; and (iii) Satia Industries Ltd vs. National Faceless Assessment Centre, New Delhi (2023) 151 taxmann.com 358 (Amritsar-Trib), therefore, we shall deal with the same, as under:

(A). CIT vs. Ambika Cotton Mills Ltd.(supra)

In the said case, the Hon'ble High Court of Madras was concerned with the taxability of "carbon credits", i.e., prior to the insertion of Section 115BBG of the Act, vide the Finance Act, 2017, w.e.f 01/04/2018, and had held that such receipts were capital receipts in nature. However, the

issue of interpreting the scope of section 115BBG vis-à-vis RECs was not there before the Hon'ble High Court.

(B). <u>ACIT vs. M/s. Indsil Hydro Power & Manganese Ltd (supra):</u>

In the said case, the coordinate Bench of the Tribunal, by relying on its earlier precedents, and prior to the insertion of Section 115BBG of the Act, vide the Finance Act, 2017, w.e.f 01/04/2018, had observed that "carbon credits" were in the nature of capital receipts. However, in the said case, the question of the applicability of section 115BBG of the Act to RECs was not a subject matter of adjudication.

(C). <u>Satia Industries Ltd vs. NFAC, New Delhi (supra)</u>**:**

In the said case, the issue before the Tribunal was whether the receipts from the sale of RECs are capital or revenue receipts per se, and not as to whether the RECs would fall within the definition of "carbon credits" for the purpose of section 115BBG of the Act.

13. As the assessee/appellant before us has in its return of income for the year under consideration offered the income on sale of RECs to tax by disclosing them as revenue receipts, it cannot now be allowed to turn around and claim the same as capital receipts. Apart from that, we find that the aforesaid issue does not even otherwise emanate from the impugned order before us. In our view, as the definition of "carbon credit"

as provided in the "Explanation" to section 115BBG of the Act contains a specific definition tied to the reduction of carbon dioxide emissions or emissions of its equivalent gases validated under UNFCC, while for RECs, being instruments issued under domestic electricity regulations and MWH do not satisfy that statutory regulation, therefore, the same by no means can be brought within the meaning of the said definition.

14. We thus, in terms of our aforesaid deliberations, are of the firm conviction that income on the sale of RECs cannot be brought within the meaning of concessional tax rate contemplated under section 115BBG of the Act.

15. Coming to the alternate contention of the Ld. AR that if the income from the sale of RECs is to be treated as business income, then the same would qualify for deduction under section 80IA of the Act, we are unable to persuade ourselves to concur with the same. We say so, for the reason that section 80IA allows deduction in respect of profits "derived from" the eligible business of generation of power. The expression "derived from" as had been interpreted by the **Hon'ble Supreme Court** in the case of **Liberty India Vs. CIT (2009) 317 ITR 218 (SC)** pre-supposes a direct and first-degree nexus to be established between the 'income earned' and the 'business activity' of the assessee.

In our view, the income from the sale of RECs arises from the trading of environmental attributes and not directly from the generation or sale of electricity. At best, such income may be attributable to the electricity business, but does not satisfy the stricter test of being “derived from” the eligible undertaking as is required by the judgment of the Hon’ble Supreme Court in Liberty India vs. CIT (supra), therefore, in terms of our aforesaid observations, the assesse’s claim that the income from sale of RECs will be eligible for deduction under section 80IA of the Act being devoid and bereft of any substance is accordingly rejected.

16. In the result, we uphold the order passed by the CIT(A) and dismiss the assessee’s appeal.

17. Resultantly, the appeal filed by the assessee is dismissed in terms of our aforesaid observations.

Order pronounced in the open court on 06th March, 2026.

Sd/- **(MANJUNATHA G.)** **ACCOUNTANT MEMBER**	**Sd/-** **(RAVISH SOOD)** **JUDICIAL MEMBER**

Hyderabad,
Dated 06th March, 2026.
*****OKK / SPS***

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4	The DR, ITAT Hyderabad Benches
5	Guard File

By Order

Sr. Private Secretary,
ITAT, Hyderabad.