

2. Shri A. Mahesh, the Ld. representative for the assessee submitted that the Assessing Officer has allowed deduction under Section 10B of the Income Tax Act, 1961 (in short "the Act") in the original assessment after calling all the details from the assessee. However, the Principal Commissioner found that in the absence of specific notification or official document suggesting that either the Inter Ministerial committee or any other agency was nominated to perform the duties of the board appointed by the Central Government by virtue of Section 14 of the Industries (Development & Regulation) Act, 1951, the grant of deduction under Section 10B of the Act merely on the basis of the STPI Approval is not in accordance with law. According to the Ld. representative, since the Assessing Officer called for all the details and satisfied himself about the eligibility of deduction claimed by the assessee under Section 10B of the Act, the Commissioner is not justified in revising the order of the Assessing Officer. The Ld. representative further submitted that consequent to the order of the Principal Commissioner, the Assessing Officer now rejected the claim of the assessee on the ground that the assessee has not raised this issue in the return of income. Therefore, the Assessing Officer has not followed the direction of the Commissioner.

3. On the contrary, Shri G.M. Das, the Ld. Departmental Representative submitted that even though the assessee has not raised the claim of deduction under Section 10B of the Act in the return of income, this Tribunal being an appellate authority could always direct the Assessing Officer to consider the claim of deduction under Section 10B of the Act. The Assessing Officer may also be directed to consider the alternating claim of deduction under Section 10A of the Act.

4. We have considered the rival submissions on either side and perused the material available on record. Even though, the assessee claims that the Assessing Officer called for all the details for the purpose of claiming deduction under Section 10B of the Act, the impugned order does not reflect anything about the application of mind by the Assessing Officer. The Assessing Officer simply allowed the claim of the assessee without any discussion. This Tribunal is of the considered opinion that the assessment order being a quasi judicial order and the assessment proceeding before the Assessing Officer is a judicial proceeding under Section 136 of the Act, the Assessing Officer is expected to record his own reasoning for allowing or disallowing the claim of the assessee. By not recording the reasons for allowing or disallowing the claim of the assessee in the impugned assessment

order, the very object of providing revisional / appellate remedy would be defeated. For the purpose of appreciating the impugned order of the assessment by the revisional and appellate authorities and also other higher forums, it is necessary for the Assessing Officer to record his own reasoning in the assessment order. This Tribunal is of the considered opinion that recording of reason would be a live link to the material available on record and the mind of the decision maker. The reasons for the conclusion reached in the assessment order has to be recorded in the assessment order itself. The reasons for the conclusions reached in the assessment order cannot be substituted either by way of an affidavit or by way of additional evidence before the revisional or appellate authorities. Since, such an application of mind is not reflected from the assessment order, this Tribunal is of the considered opinion that Principal Commissioner has rightly exercised his jurisdiction under Section 263 of the Act.

5. Now coming to the claim of deduction under Section 10B of the Act, this Tribunal is of the considered opinion that even though the claim was not raised in the return of income, the assessee may claim the same before this Tribunal on additional grounds. Therefore, as rightly submitted by the Ld. D.R., the claim of the assessee shall be

considered by the Assessing Officer, subject to fulfillment of all statutory requirements. Accordingly, while confirming the order of the Principal Commissioner of Income-Tax, the Assessing Officer is directed to examine the claim of the assessee under Section 10B of the Act subject to fulfillment of statutory requirement. If the assessee has not fulfilled the statutory requirement for the purpose of deduction under Section 10B of the Act, the Assessing Officer shall also examine the claim of the assessee alternatively under Section 10A of the Act.

6. With the above observation, the appeal of the assessee stands dismissed.

Order pronounced on 28th February, 2017 at Chennai.

Sd/-
(डि.एस. सुन्दर सिंह)
(D.S. Sunder Singh)
लेखा सदस्य/Accountant Member

Sd/-
(एन.आर.एस. गणेशन)
(N.R.S. Ganesan)
न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,
दिनांक/Dated, the 28th February, 2017.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
3. Principal CIT(A)-8, Chennai
5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent
4. आयकर आयुक्त/CIT
6. गार्ड फाईल/GF.