

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

"D" BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री चंद्र पूजारी, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1502 & 1503/Mds/2015

निर्धारण वर्ष / Assessment Years : 2010-11 & 2011-12

The Income Tax Officer,
Corporate Ward 1(1),
Chennai - 600 034.

M/s Atlas Metal Processors
Pvt. Ltd.,
v. 173/3, Old Mahabalipuram Road,
Nehru Nagar,
Chennai - 600 119.

(अपीलार्थी/Appellant)

PAN : AAACA 7401 Q
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Dr. B. Nischal, JCIT

प्रत्यर्थी की ओर से/Respondent by : Sh.M. Karunakaran, Advocate

सुनवाई की तारीख/Date of Hearing : 05.10.2015

घोषणा की तारीख/Date of Pronouncement : 09.10.2015

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the Revenue are directed against the two individual orders of the Commissioner of Income Tax (Appeals)

– 1, Chennai, dated 23.03.2015, for the assessment years 2010-11 and 2011-12. Since common issue arises for consideration in both the appeals, we heard the appeals together and disposing of by this common order.

2. Dr. B. Nischal, the Ld. Departmental Representative, submitted that the only issue arises for consideration is with regard to deduction under Section 10B of the Income-tax Act, 1961 (in short 'the Act'). Referring to the order of this Tribunal in assessee's own case for assessment years 2006-07 and 2008-09, the Ld. D.R. submitted that this Tribunal allowed the claim of the assessee under Section 10B of the Act. In fact, the CIT(Appeals), by following the order of this Tribunal, for assessment years 2006-07 and 2008-09, in assessee's own case, directed the Assessing Officer to allow deduction under Section 10B of the Act as a new unit. The Revenue has already filed an appeal before the High Court under Section 260A of the Act.

3. We heard Shri M. Karunakaran, the Ld.counsel for the assessee. According to the Ld. counsel, this Tribunal examined the issue and found that the assessee had commenced its export operation in the earlier assessment year and allowed the claim of

the assessee for deduction under Section 10B of the Act, for the assessment years 2006-07 and 2008-09. The CIT(Appeals), by following the order of this Tribunal, allowed the claim of the assessee. Therefore, a mere pendency of appeal before the High Court, cannot be a reason to take a contradictory view.

4. We have considered the rival submissions on either side and perused the relevant material on record. Admittedly, this Tribunal examined the issue for deduction under Section 10B of the Act, for the assessment years 2006-07 and 2007-08, in I.T.A. Nos.1307 and 1308/Mds/2013 dated 22.11.2013. This Tribunal found that the assessee is eligible for deduction under Section 10B of the Act. The CIT(Appeals) has followed the order of this Tribunal. This Tribunal is of the considered opinion that mere pendency of appeal before the High Court cannot be a reason to take a different view. It is not the case of the Revenue that the order of this Tribunal is stayed by the High Court. In those circumstances, this Tribunal do not find any infirmity in the orders of the CIT(Appeals).

5. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 9th October, 2015 at Chennai.

sd/-

(चंद्र पूजारी)

(Chandra Poojari)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 9th October, 2015.

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.