208 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024:PHHC:099459-DB

ITA-531-2008 (O&M)
Date of Decision: 05.08.2024

CIT-I LUDHIANA …Appellant

Vs.

MAHAVIR SPINNING MILLS LTD. …Respondent

2024:PHHC:099461-DB

ITA-532-2008 (O&M)
Date of Decision: 05.08.2024

CIT-I Ludhiana …Appellant

Vs.

MAHAVIR SPINNING MILLS LTD. …Respondent

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH

Present Mr. Ranvijay Singh, Sr. Standing Counsel for the appellant(s).

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SANJEEV PRAKASH SHARMA, J.(Oral)

1. The issue raised in the present appeals is no more *res-integra* as this Court in ITAT-601 of 2007, titled 'Commissioner of Income Tax-I, Ludhiana vs. Mahavir Spinning Mills Ltd. Vardhman Complex, Chandigarh Road, Ludhiana, examined the similar questions of law as raised by the revenue in the present appeals as substantial questions of law and decided the same against the revenue.

2. The SLP No.31540-2008, preferred against the said judgment was dismissed by the Hon'ble Supreme Court vide order dated 22.03.2010.

3. We have noticed the aforesaid position and for brevity quote the substantial questions of law as raised in the present appeal (ITA-531-2008) as well as substantial questions of law which were examined by this Court in ITAT-601-2007 (supra), as under:-

Substantial questions of law raised in ITA-531-2008:-

A. Whether the Income Tax Appellate Tribunal was justified in granting exemption u/s 10B when no claim was made by the assessee in the return of income or the revised return, which is in violation of the Hon'ble Supreme Court decision in the case of Goetze (India) Ltd. 204 CTR 182 ?

B. Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in granting the benefit of deduction u/s 10B in the absence of option exercised by the assessee in view of provisions of Section 10B(3) as on 01.04.1996 ?

Substantial questions of law already examined by this Court in ITAT-601-2007(supra):-

A. Whether the Income Tax Appellate Tribunal has erred in law in granting exemption u/s 10B, when no claim was made by the assessee in the return of income or the revised return, which is in violation of the Hon'ble Supreme Court decision in the case of Goetze (India) Ltd. 204 CTR 182 ?

B. Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in granting the benefit of deduction u/s 10B on conversation of an existing unit into an Export Oriented Unit from a subsequent date, by ignoring the provisions of sub-Section (2) of Section 10B ?

C. Whether on the facts and in law, the Hon'ble Income Tax Appellate Tribunal was justified in allowing the bad debt of Rs.1.00 lac which has not formed part of total income of the assessee in earlier previous year and was of capital expenditure in nature ?

4. This Court in ITAT-601-2007 has held as under:-

"The contention raised by the revenue is without any merit. The assessee has claimed exemption under Section 10B for the first time vide letter dated 19.1.2001. Admittedly, the impugned exemption was not claimed by the assessee in the original as well as revised return. This unit came into operation in the assessment year 1991-92 but during financial year 1994-95 got converted into 100% export oriented unit (EOU) with the permission of the Department of Industrial Development, Ministry of Industry, Govt. of India, New Delhi, vide letter dated 28.10.1994. Admittedly, Arihant Spinning Mills Unit-II (ASM-II) came into operation as DTA unit for the first time at Malerkotla, District Sangrur (Punjab) during the assessment year 1991-92 and was eligible for deduction under Section 80-I of the Act and during the financial year relevant for the assessment year 1995-96, the said unit was got registered at 100% EOU. The whole controversy is that the assessee claimed deduction under Section 80-I during the assessment proceedings and claimed exemption under Section 10B of the Act after its conversation as 100% EOU. In such a situation, it has to be analyzed in the light of both the sections i.e. Section 10B and 80-I and their requirement.

After going through the record of the case, the Tribunal has given a finding of fact that the unit of the assessee was entitled to the benefit under Section 10B of the Act. Admittedly, the circular No.1/2005 is clarificatory in nature and the same is also binding upon the department."

5. In view of above, as the questions framed in present appeals stand answered, we need not again to examine the aforesaid questions of law and dismiss the appeals of the revenue in the same terms.

6. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

05.08.2024
rajesh

1. Whether speaking/reasoned? : Yes/No
2. Whether reportable? : Yes/No