[217] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

[1] ITA-442-2014
Date of Decision : 19.03.2024

Commissioner of Income Tax, Hisar …Appellant

versus

M/s Jindal Steel and Power Limited, Hisar ….Respondent

[2] ITA-48-2015

The Commissioner of Income Tax, Hisar … Appellant

versus

M/s Jindal Steel and Power Limited, Hisar …. Respondent

[3] ITA-49-2015

The Commissioner of Income Tax, Hisar … Appellant

versus

M/s Jindal Steel and Power Limited, Hisar …. Respondent

Coram : **HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA**
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Ms. Urvashi Dhugga, Sr. Standing Counsel with
Ms. Manisha, Advocate for the appellant(s)-Income Tax Department.

Mr. Salil Kapoor, Advocate for the respondent(s).

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SANJEEV PRAKASH SHARMA, J. (ORAL)

[1] In these three appeals, the questions of law as raised by the appellant(s) stand finally decided by Hon'ble the Supreme Court in a bunch of appeals filed by the revenue i.e. Civil Appeal No.13771 of 2015 titled as '***Commissioner of Income Tax*** *versus* ***M/s Jindal Steel & Power Limited through its Managing Director***', wherein, the contention raised

by the revenue with regard to the two issues, firstly, relating to the allowance of deduction under Section 80 IA of the Act and secondly, with regard to the market value and assessment claimed by the assessee based on such value, have both answered against the revenue and in favour of the assessee. The relevant paras for the purpose are para Nos.10, 31, 33 & 34, which reproduced as under:-

> *"10. Aggrieved by the aforesaid finding rendered by the Tribunal, revenue preferred appeal before the High Court of Punjab and Haryana under Section 260A of the Act which was registered as Income Tax Appeal No.53 of 2008. The High Court in its order dated 02.09.2008 disposed of the appeal by following its order dated 02.09.2008 passed in the connected ITA No.544 of 2006 (Commissioner of Income Tax, Hisar vs. M/s Jindal Steel and Power Ltd). That was an appeal by the revenue on the same issue against the order dated 31.03.2006 passed by the Tribunal in the case of the assessee itself i.e. ITA No.3663/Del/2005 for the assessment year 2000-2001. Insofar allowance of deduction under Section 80 IA of the Act is concerned, the High Court answered the question against the revenue as it was submitted at the bar that the issue already stood covered by the previous decision against the revenue.*
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> *31. That being the position, we hold that the Tribunal had rightly computed the market value of electricity supplied by the captive power plants of the assessee to its industrial units after comparing it with the rate of power available in the open market i.e., the price charged by the State Electricity Board while supplying electricity to the industrial consumers. Therefore, the High Court was fully justified in deciding the appeal against the revenue.*

33. Before parting with this issue, we may mention that reliance placed by Mr. Rupesh Kumar, learned counsel for the revenue on the definition of the expression "market value" as defined in the explanation below sub-section (6) of Section 80 A of the Act is totally misplaced inasmuch as sub-section (6) was inserted in the statute with effect from 01.04.2009 whereas in the present case we are dealing with the assessment year 2001-2002 when this provision was note even borne.

34. That being the position, we have no hesitation in answering this issue in favour of the assessee and against the revenue. "

[2] The revenue of the present ITA(s) would also be governed in the same terms as the final pronouncement by Hon'ble the Supreme Court on the said issues vide its judgment dated 06.12.2023.

[3] Disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

19.03.2024
'R. Sharma'

Whether speaking/ reasoned	:	*Yes/No*
Whether reportable	:	*Yes/No*