IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

TCA No. 87 of 2025

The Principal Commissioner of Income Tax-1
Chennai.

Appellant(s)

Vs

Astrotech Steels Private Limited
No.19, II Floor, Right Wing,
Ghatala Towers, Avenue, Road,
Nungambakkam, Chennai – 600 034.

Respondent(s)

Prayer: Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of Income Tax Appellate Tribunal, Madras "C" Bench, Chennai, dated 03.07.2024 passed in I.T.A No.1150/Chny/2018.

For Appellant(s): Mr.T.Ravikumar,
Senior Standing Counsel

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

This appeal filed under Section 260A of the Income Tax Act, 1961 ["the Act"] impugns an order pronounced on 3.7.2024 by the Income Tax Appellate Tribunal, "C" Bench, Chennai, on various grounds.

2. The following two substantial questions of law have been proposed:

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was justified in allowing the assessee's claim of deduction under Section 10AA especially when the assessee had failed to file the statutory Form 56F within the time limit prescribed by the statute?
>
> 2. Whether the Tribunal was justified in holding that filing of Form 56F was directory in nature by placing reliance in the case of *CIT (E) v. Gujarat Energy Development Agency*[1], which is contrary to the direction of the Apex Court while dealing with 10B(8) in the case of Principal Commissioner of Income Tax v. Wipro Limited[2] and also in the case of Review Petition filed in

1 TCA No.35 of 2024, dated 15.1.2024
2 (2022) 446 ITR 1

Wipro Limited v. Principal Commissioner of Income Tax[3], wherein it was held that the twin conditions of furnishing the declaration to the Assessing Officer in writing and that the same must be furnished before the due date for filing of the return of income under Section 139(1) of the IT Act must be satisfied, whereas assessee failed to do while claiming deduction under Section 10B?"

3. Assessee had filed return of income on 16.10.2018 for assessment year 2018-2019 declaring a total income of Rs.17,57,73,823/- and the return was processed under Section 143(1) of the Act. Assessee had claimed deduction under Section 10AA of the Act amounting to Rs.7,48,71,926/-. While processing the return under Section 143(1) of the Act, the deduction claimed by assessee under Section 10AA was disallowed, since the audit report in Form 56F, which is to be filed along with the return, was not filed by assessee. Assessee had filed a rectification application under Section 154 of the Act and a rectification order dated 28.1.2021 was passed rejecting the claim of the assessee.

4. The said order was challenged before the Commissioner of Income

3 (2022) 289 Taxmann.com 621 (SC)

Tax (Appeals) by way of an appeal. The appeal was allowed by the CIT(A), who observed that the delay in filing Form 56F was only a procedural lapse and that cannot be a ground for not granting the deduction claimed under Section 10AA of the Act. The order passed by the CIT(A) was affirmed by the ITAT.

5. The prescribed date for filing Form 56F was 31.10.2018 and, admittedly, assessee had filed it on 20.12.2018. Counsel was unable to show any provision which provides that after the due date an assessee is barred from filing Form 56F. Admittedly, Form 56F was filed and, in effect, the delay in filing has been condoned.

6. We agree with the ITAT that the facts in the case of *Principal Commissioner of Income Tax v. Wipro Ltd (supra)* were different. In that case, assessee initially made the claim and did not seek to carry forward losses, but during the assessment proceedings, the assessee had taken an altogether different stand and sought withdrawal of the initial deduction claimed in the return of income and sought to carry forward losses. In the case at hand, the deduction under Section 10AA of the Act has been claimed

in the original return of income which was filed within the prescribed time, but Form 56F was filed about 50 days later.

7. Assessee having duly fulfilled the substantial requirement as well as the procedural requirement, though there is a minor technical breach in fulfillment of the procedural requirement, the CIT(A) as well as the ITAT have opined that the delay in filing Form 56F would not be fatal to the substantive claim of the assessee. In fact, what has also weighed in the mind of the ITAT is that the same claim had been allowed to assessee and this was the sixth assessment year of claiming the amount of deduction.

8. In these circumstances, in our view, no substantial question of law arises.

Appeal is dismissed. There shall be no order as to costs.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
03.06.2025

Index : Yes
Neutral Citation : Yes
sasi

To:

1. The Assistant Registrar
   Income Tax Appellate Tribunal
   Chennai Benches, Chennai.

2. The Commissioner of Income Tax (Appeals)
   National Faceless Appeal Centre (NFAC)
   Income Tax Department, Ministry of Finance
   Government of India, New Delhi.

THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN,J.

(sasi)

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