IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2025

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

TCA No.47 of 2012

Commissioner of Income Tax LTU
Chennai : Appellant

versus

M/s.EID Parry (India) Ltd
Dare House,
No.234, NSC Bose Road,
Chennai 600 001 : Respondent

Prayer: Appeal filed against the order of the Income Tax Appellate Tribunal, Madras "B" Bench, Chennai, dated 02.08.2011 in ITA No.415/Mds/2010.

For Appellant : Ms.V.Pushpa,
Senior Standing Counsel

For Respondent : Mr.R.Vijayaraghavan,
for M/s.Subbaraya Aiyar Padmanabhan Ramamani

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The following four questions of law were framed by this Court on 20.03.2012 while admitting the appeal:

> *"1. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the deduction under Section 80-1A could not be excluded from the business profits for the purpose of computation of deduction under Section 80 HHC ignoring the clear provisions of Section 80-1A(9) which clearly prohibited such double allowance of deduction?*
>
> *2. Whether on the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to claim deduction under Section 80-1A without fully setting-off of unabsorbed depreciation of the past years even though the same had been set off against other income, ignoring the provisions of Section 80-1A(5) which clearly stipulated that for the purpose of computation of deduction under Section 80-1A, the eligible unit had to be treated as the only source of income of the assessee and therefore, the unabsorbed depreciation/ loss of the earlier years, even though they had been set off against the other income of the assessee, had to be notionally carried forward for determining the eligible profits of the undertaking?*

3. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in allowing the assessee's claim reducing the amount of unabsorbed depreciation in a revised statement, without filing a revised return, as laid down by the Hon'ble Supreme court in the case of GOETZE INDIA PVT. LTD (284 ITR 323)?

4. Whether on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in holding that the assessee was entitled to deduction in respect of the captive power generation plant ignoring the fact that the turbine to generate electricity was installed only to utilise the huge volume of low pressure steam needed for the process of manufacturing sugar and was therefore not an independent undertaking so as to be eligible to claim deduction under Section 80-1A(4)(iv)?"

2. As regards Question No.2, the Court has, on the same date, recorded in paragraph 3 that the Revenue fairly submitted that the said question of law is covered by ***Velayudha Swamy Spinning Mills P Ltd vs. ACIT (Madras)***[1]***,*** and held against the Revenue. Ms.Pushpa fairly states that the special leave petition was also dismissed, as reported in ***ACIT (Madras) vs. Velayudha Swamy Spinning Mills P Ltd***[2]**.**

1 ***(2012) 340 ITR 477 Mad***
2 ***(2017) 244 taxmann. 0058 (SC)***

3. That would leave us to consider only Question Nos.1, 3 and 4.

4. As regards Question No.1, there is an order dated 20.11.2024, which says that Mr.Vijayaraghavan, on instructions, makes an endorsement to withdraw the said substantial question of law.

5. Both counsel state, and we agree with them, that there is an error in this order because the appeal is by the Revenue and therefore, Mr.Vijayaraghavan, for the assessee, could not have withdrawn the question of law. Mr.Vijayaraghavan, who is present before us, states that what he meant was, he conceded the issue in favour of the Revenue.

6. At the same time, today it is submitted that the same issue was considered by the Apex Court in ***Shital Fibres Ltd vs. Commissioner of Income Tax***[3], ***Associated Capsules (P) Ltd vs. Deputy Commissioner of Income Tax and anr***[4]. ***and Assistant Commissioner of Income Tax,***

3 ***2025 SCC Online SC 1178***
4 ***2011 SCC Online Bombay 27***

Bangalore vs. Micro Labs Ltd[5] and answered in favour of the assessee. Therefore, we would answer this question of law in favour of the assessee, in place of concession made by Mr.Vijayaraghavan earlier.

7. As regards Question No.4, the same is covered by ***Commissioner of Income Tax vs. Jindal Steel and Power Ltd***[6]; ***Tamil Nadu Petro Products vs. Assistant Commissioner of Income Tax***[7], ***PCIT vs. Jay Chemical Industries Ltd***[8].

8. As regards Question No.3, in our view, this question of law will not arise in view of the settled position of law stated in answer to Question No.2 mentioned above.

9. The appeal stands disposed of. There shall be no order as to costs.

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

11.07.2025

5 ***2015 (17) SCC 96***
6 ***460 ITR 162 SC***
7 ***338 ITR 643 Madras***
8 ***120 Taxmann.com 315 (Guj)***

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN, J.

(tar)

To
1.The Commissioner of Income Tax LTU
Chennai

2.The Income Tax Appellate Tribunal,
Madras "B" Bench, Chennai

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