IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2025

CORAM

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

TCA No.51 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.705/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 questions of law were framed by this Court on 20.03.2012, while admitting the appeal:

"1. 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?

2. 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)?"

2. As regards Question No.1, the Court has, on the same day, recorded in paragraph 3 that the Revenue has fairly submitted that the question of law is covered by ***Velayudha Swamy Spinning Mills P Ltd vs.***

ACIT (Madras)[1], and held against the Revenue. Ms.Pusha fairly states that the special leave petition was also dismissed, as reported in ***ACIT (Madras) vs. Velayudha Swamy Spinning Mills P Ltd***[2].

3. As regards Question No.2, in our view, this question of law will not arise in view of the settled position of law stated in answer to question No.1 mentioned above.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
11.07.2025

Index : Yes/No
Neutral Citation : Yes/No
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To
1.The Commissioner of Income Tax LTU,
Chennai

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

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

THE HON'BLE CHIEF JUSTICE

AND

SUNDER MOHAN, J.

(tar)

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