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TCA No. 970 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-02-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

TCA No. 970 of 2014

Commissioner of Income Tax
Chennai.

..Appellant(s)

Vs

M/s Ucal Fuel Systems Ltd.,
Unit 505, Delta Wing Raheja Towers,
177, Anna Salai, Chennai-600 002.
PAN:AAACU0541K

..Respondent(s)

Prayer: Appeal filed under Section 260A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal Madras 'C' Bench, dated 27.02.2014 in I.T.A.No.353/Mds/2007 for the assessment year 2003-04.

For Appellant(s): Ms.Pooja
for Dr.S.Sathiyarayanan.
Senior Standing Counsel

For Respondent(s): Mr.A.S.Sriraman
for Mr.Sridhar



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JUDGMENT

(Delivered by Dr.Anita Sumanth J.)

This Tax Case (Appeal) relates to Assessment Year (AY) 2003-04. The substantial questions of law admitted on 02.12.2024, are extracted below:

‘1. Whether in the facts and circumstances of the case the Income Tax Appellate Tribunal was right in law in holding that the notional loss of depreciation which was set off against other income of earlier years prior to initial assessment year could not be carried forward to set off in the initial assessment year for the purpose of working out the deduction u/s 80IA of the Act, when the same is permitted u/s 80IA(5) of the Act?’

2. Whether in the facts and circumstances of the case, the Income Tax Appellate Tribunal was right in holding that in computing the deduction u/s 80IB, deduction u/s 80HHC need not be excluded when the intention behind Sec. 80IA(9) is that deduction should not be allowed twice in respect of the same profits?’

2.Both Ms.Pooja, learned counsel for the appellant and Mr.Sriraman, learned counsel for the respondent agree that the first question of law is covered by a decision of this Court in *Velayudhaswamy Spinning Mills (P.) Ltd. v. Assistant Commissioner of Income-tax* [340 ITR 477], the operative portion of which reads as follows:

‘18. From a reading of the above, it is clear that the eligible business were the only source of income, during the previous year relevant to the initial assessment year and every subsequent assessment years. When the assessee exercises the option, the only losses of the years beginning from initial assessment year alone are to be brought forward and no losses of earlier years which were already set off against the income of the assessee. Looking forward



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to a period of ten years from the initial assessment is contemplated. It does not allow the Revenue to look backward and find out if there is any loss of earlier years and bring forward notionally even though the same were set off against other income of the assessee and the set off against the current income of the eligible business. Once the set off is taken place in earlier year against the other income of the assessee, the Revenue cannot rework the set off amount and bring it notionally. A fiction created in sub-section does not contemplate to bring set off amount notionally. The fiction is created only for the limited purpose and the same cannot be extended beyond the purpose for which it is created.

19. In the present cases, there is no dispute that losses incurred by the assessee were already set off and adjusted against the profits of the earlier years. During the relevant assessment year, the assessee exercised the option under section 80-IA(2). In Tax Case Nos. 909 of 2009 as well as 940 of 2009, the assessment year was 2005-06 and in Tax Case No. 918 of 2008 the assessment year was 2004-05. During the relevant period, there were no unabsorbed depreciation or loss of the eligible undertakings and the same were already absorbed in the earlier years. There is a positive profit during the year. The unreported judgment of this court cited *supra* considered the scope of sub-section (6) of section 80-I, which is the corresponding provision of sub-section (5) of section 80-IA. Both are similarly worded and, therefore, we agree entirely with the Division Bench judgment of this court cited *supra*. In the case of *CIT v. Mewar Oil and General Mills Ltd. (No. 1)* [2004] 271 ITR 311 (Raj); [2004] 186 CTR (Raj) 141, the Rajasthan High Court also considered the scope of section 80-I and held as follows (page 314 of 271 ITR):

"Having considered the rival contentions which follow on the line noticed above, we are of the opinion that on finding the fact that there was no carry forward losses of 1983-84, which could be set off against the income of the current assessment year 1984-85, the recomputation of income from the new industrial undertaking by setting off the carry forward of unabsorbed depreciation or depreciation allowance from previous year did not simply arise and on the finding of fact noticed by the Commissioner of Income-tax (Appeals), which has not been disturbed by the Tribunal and challenged before us, there was no error much less any error apparent on the face of the record which could be rectified. That question would have been



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germane only if there would have been carry forward of unabsorbed depreciation and unabsorbed development rebate or any other unabsorbed losses of the previous year arising out of the priority industry and whether it was required to be set off against the income of the current year. It is not at all required that losses or other deductions which have already been set off against the income of the previous year should be reopened again for computation of current income under section 80-I for the purpose of computing admissible deductions thereunder.

In view thereof, we are of the opinion that the Tribunal has not erred in holding that there was no rectification possible under section 80-I in the present case, albeit, for reasons somewhat different from those which prevailed with the Tribunal. There being no carry forward of allowable deductions under the head depreciation or development rebate which needed to be absorbed against the income of the current year and, therefore, recomputation of income for the purpose of computing permissible deduction under section 80-I for the new industrial undertaking was not required in the present case.

Accordingly, this appeal fails and is hereby dismissed with no order as to costs."

20. From a reading of the above, the Rajasthan High Court held that it is not at all required that losses or other deductions which have already been set off against the income of the previous year should be reopened again for computation of current income under section 80-I for the purpose of computing admissible deductions thereunder. We also agree with the same. We see no reason to take a different view.

21. The standing counsel appearing for the Revenue is unable to bring to our notice any relevant material or any compelling reason or any contra judgment of other courts to take a different view. He only relied heavily on the Memorandum explaining the provisions in the Finance (No. 2) Bill, 1980, [1980] 123 ITR (St.) 154 to support this case and the same reads as follows:

"Clause 30(iii). In computing the quantum of 'tax holiday' profits in all cases, taxable income derived from the new industrial units, etc., will be determined as if such units were an independent unit owned by a taxpayer who does not have



any other source of income. In the result, the losses, depreciation and investment allowance of earlier years in respect of the new industrial undertaking, ship or approved hotel will be taken into account in determining the quantum of deduction admissible under the new section 80-I even though they may have been set off against the profits of the taxpayer from other sources."

22. We are not agreeing with the counsel for the Revenue. We are, therefore, of the view that loss in the year earlier to the initial assessment year already absorbed against the profit of other business cannot be notionally brought forward and set off against the profits of the eligible business as no such mandate is provided in section 80-IA(5).

23. Under these circumstances, we set aside the order of the Tribunal and answer all the questions in favour of the appellant/assessee and against the Revenue in Tax Case Nos. 909 and 940 of 2009 respectively. Accordingly, tax cases are allowed.'

3.The Special Leave Petition filed by the Department as against the above decision has been dismissed at the stage of admission.

4.As far as second question is concerned, learned counsel concur that the issue is covered by a judgment of the Supreme Court in *Shital Fibers Ltd. v. Commissioner of Income-tax* [476 ITR 309] in favour of the assessee following the ratio of the decision of the Bombay High Court in *Associated Capsules (P) Ltd. v. Deputy Commissioner of Income Tax* [332 ITR 42]. The operative portion of the decision of the Bombay High Court, quoted with approval in *Shital Fibers(supra)* reads as follows:

"39. Strong reliance was also placed by the counsel for the Revenue on the Special Bench decisions of the Tribunal in the case of Rogini Garments (2007) 294 ITR (AT) 15 (Chennai) and Hindustan Mint and Agro Products P Ltd. (2009) 315 ITR (AT) 401 (Delhi), which



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are affirmed by the Delhi High Court in the case of *Great Eastern Exports* 196 Taxman 145/332 ITR 14 (Delhi). Reliance is also placed on decision of the Kerala High Court in the case of *Olam Exports (India) Ltd.* [2009] 184 Taxman 373/[2011] 332 ITR 40 (Kerala), which supports the case of the Revenue.

40. We find it difficult to subscribe to the views expressed by the Delhi High Court in interpreting the provisions of section 80-IA(9). In that case, in fact, the counsel for the Revenue had argued (see paragraph 38 of the judgment) that section 80-IA(9) applies at the stage of allowing deduction and not at the stage of computing deduction under other provisions under heading C of Chapter VI-A. It was argued that in the matter of grant of deduction, the first stage is computation of deduction and the second stage is the allowance of the deduction. Computation of deduction has to be made as provided in the respective sections and it is only at the stage of allowing deduction under section 80-IA(1) and also under other provisions under heading C of Chapter VI-A, the provisions of section 80-IA(9) come into operation. While accepting the arguments advanced by the counsel for the Revenue, it appears that the Delhi High Court failed to consider the important argument of the Revenue noted in paragraph 38 of its judgment. Moreover, without rejecting the argument of the Revenue that section 80-IA(9) applies at the stage of allowing the deduction and not at the stage of computing the deduction, the Delhi High Court could not have held that section 80-IA(9) seeks to disturb the method of computing the deduction provided under other provisions under heading C of Chapter VI-A of the Act. In these circumstances, we find it difficult to concur with the views expressed by the Delhi High Court in the case of *Great Eastern Exports* [2011] 332 ITR 14. For the same reason, we find it difficult to subscribe to the views expressed by the Kerala High Court in the case of *Olam Exports* [2011] 332 ITR 40.

41. In the result, we hold that section 80-IA(9) does not affect the computability of deduction under various provisions under heading C of Chapter VI-A, but it affects the allowability of deductions computed under various provisions under heading C of Chapter VI-A, so that the aggregate deduction under section 80-IA and other provisions under heading C of Chapter VI-A do not exceed 100 per cent. of the profits of the business of the assessee. Our above view is also supported by the Central Board of Direct Taxes Circular No. 772 dated December 23, 1998 ((1999) 235 TR (St.) 35), wherein it



is stated that section 80-IA(9) has been introduced with a view to prevent the taxpayers from claiming repeated deductions in respect of the same amount of eligible income and that too in excess of the eligible profits. Thus, the object of section 80-IA(9) being not to curtail the deductions computable under various provisions under heading C of Chapter VI-A, it is reasonable to hold that section 80-IA(9) affects allowability of deduction and not computation of deduction. To illustrate, if Rs.100 is the profits of the business of the undertaking, Rs. 30 is the profits allowed as deduction under section 80-IA(1) and the deduction computed as per section 80HHC is Rs. 80, then, in view of section 80-IA(9), the deduction under section 80HHC would be restricted to Rs.70, so that the aggregate deduction does not exceed the profits of the business."

5.In light of the above discussion, this Tax Case (Appeal) is dismissed.

No costs.

(A.S.M.,J.) (M.S.K.,J.)
02-02-2026

vs

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

The Income Tax Appellate Tribunal Madras 'C' Bench,
Chennai.



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**DR.ANITA SUMANTH J.
AND
MUMMINENI SUDHEER KUMAR J.**

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