



2026:DHC:1254-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 12th February, 2026

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ITA 689/2025

PR. COMMISSIONER OF INCOME TAX, CENTRAL-3, DELHI

.....Appellant

Through: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC, Mr. Yojit Pareek JSC & Mr. Surya Jindal, Adv.

versus

JINDAL SAW LTD.

.....Respondent

Through: Mr. Rohit Jain, Mr. Saksham Singhal & Mr. Tavish Verma, Adv.

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VINOD KUMAR****J U D G M E N T****DINESH MEHTA, J. (Oral)**

1. The present appeal is directed against the order dated 24.09.2024 passed by the learned Income Tax Appellate Tribunal, Bench "B": New Delhi (*hereinafter referred to as "the Tribunal"*) whereby the appeal filed by the Revenue was dismissed.

2. The Revenue has proposed the following question of law before this Court in its appeal:

"2.1 Whether on the facts and circumstances of the case, Ld. ITAT is justified in deleting the additional grounds raised by the assessee to claim excise duty refund of Rs.59,68,88,582/- as the assessee has already been treated as revenue receipt in return of income itself?"



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3. While doing so the Tribunal held that the subsidy on the excise duty paid, which the respondent-assessee received under the excise duty exemption provided by the Central Government was a capital receipt and not liable to be taxed under the Income Tax Act, 1961.

4. On hearing learned counsel for the parties, we are apprised that the subsidy in question was received under the Incentive Scheme 2001 for Economic Development of Kutch District (*hereinafter referred to as "the Scheme of 2001"*), issued by the Government of Gujarat on 09.11.2001, after the infliction of earthquake in Kutch area.

5. This issue is covered by the judgment of Hon'ble the Supreme Court rendered in *CIT, Madras v. Ponni Sugars & Chemicals Limited* reported in **2008 (306) ITR 392 (SC)** wherein it has been categorically held that Sales Tax & Excise Duty refund or the subsidy which is linked to Capital Investment made, is a capital receipt.

6. We also do not find any substance in alternative argument of Mr. Gupta that such subsidy should be reduced from the block of assets. In this regard he suggested the following question arises:

- (i) Since the Tribunal has held that the subsidy which the respondent-assessee has received is a capital receipt, whether the amount of subsidy is required to be reduced from the block of assets on which the respondent-assessee claim depreciation.

7. On going through the facts available on record, we are of the considered opinion that since the subsidy which the respondent-assessee had received under the scheme of 2001 was in the nature of capital receipt independent of the cost of any asset, the only correlation with the asset was in the sense that an industry was supposed to make a particular investment.



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Otherwise, there was no nexus with the excise duty paid with the cost of the cost of a particular machine.

8. Hence, the contention of the appellant-Department that the subsidy so received should be reduced from the block of assets is untenable in law.

9. We have this view because, the subsidy was not in the nature of capital investment subsidy and it was in the form of reimbursement of the excise duty paid by the unit. Unless the subsidy is directly linked to the cost of purchase of the particular asset, the same cannot be reduced from the block of assets.

10. We are of the view that the Tribunal has rightly decided the appeal and ground raised by the Department. The question which has been proposed by Mr. Gaurav Gupta during the course of arguments does neither arise nor can it be answered in favour of the Revenue.

11. The appeal, therefore, fails.

DINESH MEHTA
(JUDGE)

VINOD KUMAR
(JUDGE)

FEBRUARY 12, 2026/sr