
(2011) 11 P&H CK 0062
In the Punjab And Haryana At Chandigarh
Case No : IT Appeal No. 225 of 2011

Commissioner of Income Tax-1

APPELLANT

Vs

Micro Turners

RESPONDENT

Date of Decision : 17-11-2011

Acts Referred:

Income Tax Act, 1961 — Section 260A, 80IC, 80IC

Citation : (2012) 205 TAXMAN 18

Hon'ble Judges : Hemant Gupta, J;G.S. Sandhawalia, J

Bench : Division Bench

Advocate : Urvashi Dugga, for the Appellant; Ravi Shankar, for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The revenue is in appeal u/s 260-A of the Income Tax Act, 1961 aggrieved against the order passed by the Income Tax

Appellate Tribunal on 18.10.2010 in ITA No. 553/Chandi/2010 for the assessment year 2006-07 raising following substantial questions of law:-

1. Whether the learned ITAT was right in law in allowing deduction u/s 80IC of the Income Tax Act on stock transfer to sister unit at Gurgaon

ignoring the fact that stock had either been moved in raw or in semi-finished form and this does not constitute manufacturing activity?

2. Whether the learned ITAT was right in law in holding that the income from sale of scrap was eligible for deduction u/s 80IC of the Income Tax

Act?

The assessee is a manufacturing unit at Parwanoo. The assessee claimed deduction u/s 80-IC of the Act to the tune of transfer sales of Rs.

2,48,87,941 and scrap sales to the tune of Rs. 12,49,436/-. The Assessing Officer found that the scrap sales and stock transfer to sister concern

at Gurgaon is not an income derived from manufacturing process and, therefore, not liable to deduction as contemplated u/s 80-IC of the Act.

2. In respect of the first substantial question of law, it was found by the Tribunal that the Gurgaon unit of the assessee has no manufacturing activity

as such unit does not have any plant and machinery but only facility is of packaging and then transfer of the shaft assembly to Maruti Udyog

Limited. It is, thus, concluded that the entire manufacturing process takes place at Parwanoo unit, therefore, deduction claimed is in respect of

income derived from manufacturing process. We do not find such finding is in any way erroneous which may give rise to said substantial question

of law.

3. In respect of second question of law, the Tribunal has relied upon judgment of the Madras High Court in Fenner (India) Ltd. Vs. Commissioner

of Income Tax (No. 2), , wherein industrial undertaking was engaged in the manufacturing of V-belts, oil seals, O-rings, rubber moulded products,

etc. Certain scrap material resulted from process which has a saleable value. The Hon"ble Madras High Court has held that to say that the scrap

material has no direct link or nexus with the industrial undertaking, cannot at all be accepted to commend acceptability on the facts and in the

circumstances of the case.

4. In the present case, the assessee is engaged in the manufacturing of automobile shafts" accessories. In such process, scrap is generated. Such

scrap has direct link with the manufacturing process, i.e., manufacturing of shafts is bound to be generated. Therefore, in view of the judgment of

the Madras High Court, with which we respectfully agree, no substantial question of law arises for our consideration.

5. Learned counsel for the revenue relied upon another judgment of Madras High Court in Pandian Chemicals Ltd. v. CIT [2002] 254 ITR 562 :

[2003] 128 Taxman 126 (Mad.). But in the said judgment, a finding was recorded that there is no detail in respect of scraps, gunny bags for which

assessee has claimed deduction. The judgment in Fenner India's case (supra) is applicable to the facts of the present case and not the one in

Pandian Chemicals" case. In view thereof, no substantial question of law arises for consideration of this court. Consequently, the present appeal is

dismissed.