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**(2014) 11 MAD CK 0328**  
**In the Madras High Court**  
**Case No : T.C. (A). No. 878 of 2014**

Commissioner of Income Tax

APPELLANT

Vs

Malind Laboratories P. Ltd.

RESPONDENT

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**Date of Decision :** 18-11-2014

**Acts Referred:**

Income Tax Act, 1961 — Section 115JB, 143(1), 154, 80IC

**Citation :** (2014) 11 MAD CK 0328

**Hon'ble Judges :** R. Sudhakar, J;R. Karuppiiah, J

**Bench :** Division Bench

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## Judgement

R. Sudhakar, J.—This appeal is filed challenging the order of the Income Tax Appellate Tribunal "C" Bench, Chennai, dated 12.8.2011

made in I.T.A. No.1553/Mds/ 2010 for assessment year 2007-2008, raising the following questions of law:

(i) Whether in the facts and circumstances of the case, the Tribunal was right in having affirmed the decision of the Commissioner of Income Tax

(Appeals), who ordered for grant of deduction under Section 80IC of the Income Tax Act, 1961 to the tune of Rs.1,56,48,973/-?

(ii) Whether on the facts and circumstances, the Tribunal erred in upholding the claim for deduction under Section 80IC of the Income Tax Act,

when the assessee had failed to make a claim for the same in its return of income nor filed revised return of income, rendering it contrary to the

decision rendered by the Supreme Court in Goetze (India) Ltd. Vs. Commissioner of Income Tax, ?

2.1. The brief facts of the case are as under: The assessee is a company engaged in the business of manufacturing and export of pharmaceutical

products. For the assessment year 2007-2008, the assessee filed return of

income on 30.10.2007 declaring a total income of Rs.1,56,48,973/-

under normal computation and claimed that it was liable to pay tax on its book profits under Section 115JB of the Act and, accordingly, paid tax.

The tax under Section 115JB of the Act was made after adjusting the claim of deduction under Section 80IC of the Act against the income

returned and thereby arrived at Nil income.

2.2. The said return filed by the assessee was processed under Section 143(1) of the Act and the Assessing Officer computed the tax on the total

income as declared under normal computation and determined the tax payable at Rs.50,67,731/- and ignored the computation under Section

115JB of the Act. Therefore, the appellant filed a rectification petition on 28.4.2009 on the ground that there was omission to allow their claim for

deduction under Section 80IC to the tune of Rs.1,56,48,973/- under normal computation and also sought for credit for the TDS amounting to

Rs.5,12,227/-. The Assessing Officer, by order dated 28.1.2010, rejected the rectification petition stating that the claim under Section 80IC of the

Act was not made in the return.

2.3. Aggrieved by the said order, the assessee filed an appeal before the Commissioner of Income Tax (Appeals), who allowed the appeal and

directed the Assessing Officer to grant deduction under Section 80IC to the tune of Rs.1,56,48,973/-.

2.4. Calling in question the said order, the department went on appeal to the Tribunal. The Tribunal, by order dated 12.8.2011, dismissed the

appeal filed by the Revenue holding as under:

9. Further, we also observe that the Revenue has not disputed the finding of the Id. CIT(A) that the assessee was eligible for deduction u/s 80IC of

the Act. No material was brought before us to show that the assessee was not eligible for deduction u/s. 80IC of the Act.

10. We are reminded of the decision of the Hon''ble Supreme Court in the case of Ramlal, Motilal and Chhotelal Vs. Rewa Coalfields Ltd.,

wherein it was held that the state authorities should not raise technical pleas if the citizens have a lawful right and the lawful right is being denied to

them merely on technical grounds. The state authorities cannot adopt the attitude which private litigants might adopt. The Hon''ble CBDT has also

opined in Circular No. 14 of 1955 dated April 11, 1965 that if an assessee, under

a mistake, misconception or not being properly instructed is

over assessed, the authorities under the Act are required to assist him and ensure that only legitimate taxes due are collected.

11. In view of the above, we do not find any good reason to interfere with the order of the Id. CIT(A). It is confirmed. The ground of appeal of the

Revenue is dismissed.

2.5. Assailing the said order, the Department has preferred this appeal on the questions of law, referred supra.

3. Heard Mr.T.R. Senthil Kumar, learned Standing Counsel appearing for the appellant and perused the orders passed by the Tribunal and the authorities below.

4. The facts of the present case make it clear that the assessee has filed a petition under Section 154 of the Act at the earliest point of time seeking

revision of intimation under Section 143(1) of the Act and the matter was pursued by the assessee diligently even before the Commissioner of

Income Tax (Appeals). When an appeal is a continuation of the original assessment proceedings, the Tribunal was justified in relying upon the

decision of the Supreme Court in Ram Lal v. Reva Coal Field Ltd., AIR 1962 SC 31, wherein it is held that the State authorities should not raise

technical pleas if the citizens have a lawful right. The Tribunal has rightly observed that the authorities under the Act are required to ensure that only

legitimate taxes due are assessed and collected. Moreover, in respect of the very same assessee, for the assessment year 2006-2007, the

Assessing Officer has allowed the claim under Section 80IC of the Act made by the assessee.

5. This Court in The Ramco Cements Ltd. v. Deputy Commissioner of Income Tax (Tax Case (A) No. 916 of 2004, dated 17.9.2014) held that

when the assessee had given a reasonable explanation and supported it with a plea of bona fide error, the same should be accepted and any

decision rendered otherwise will have the effect of denying the correct tax liability.

6. In the case on hand, the Commissioner of Income Tax (Appeals) categorically held that the assessee is eligible for deduction under Section

80IC of the Act and the same was confirmed by the Tribunal. We find no infirmity in the order passed by the Tribunal warranting interference.

7. For the foregoing reasons, no question of law, much less substantial question of law arises for our consideration and accordingly, this appeal is dismissed.