
(2008) 12 P&H CK 0059
In the Punjab And Haryana At Chandigarh

Commissioner of Income Tax

APPELLANT

Vs

Ramco International

RESPONDENT

Date of Decision : 08-12-2008

Acts Referred:

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

Citation : (2009) 221 CTR 491 : (2011) 332 ITR 306 : (2009) 180 TAXMAN 584

Hon'ble Judges : L.N. Mittal, J; Adarsh Kumar Goel, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Adarsh Kumar Goel, J.—The Revenue has preferred this appeal u/s 260A of the IT Act, 1961 (in short, "the Act") against the order of Tribunal, Amritsar Bench, Amritsar dt. 12th Oct., 2007, passed in ITA No. 213/Asr/2007 for the asst. yr. 2003-04, proposing to raise following substantial questions of law:

1. Whether, on the facts and in the circumstances of the case and in law, the Tribunal was right in law in allowing assessee's claim for deduction u/s 80-IB which the assessee had neither claimed in the return of income nor through a revised return of income ?
2. Whether on the facts and in the circumstances of the case, the decision of Tribunal is not contrary to the law as spelt out by the Hon'ble Supreme Court in Goetze (India) Ltd. Vs. Commissioner of Income Tax, and The Additional Commissioner of Income Tax, Gujarat Vs. Gurjargravures Private Ltd.,
2. The assessee claimed deduction u/s 80-IB of the Act and though Form No. 10CCB and other requisite documents were furnished, the AO without referring to the said documents made assessment. On appeal, the appellate authority upheld the claim of the assessee. The Tribunal has upheld the said view.
3. Learned Counsel for the Revenue submits that the assessee made claim by way of an application without filing a revised return and in such a situation,

judgment of the Hon"ble Supreme Court in Goetze (India) Ltd. Vs. Commissioner of Income Tax, was applicable and deduction could not be allowed.

4. We are unable to accept the submission. The Tribunal has considered this issue and found that as per Form 10CCB filed during assessment proceedings, the claim of the assessee was admissible. Finding of the Tribunal is as under:

19. In view of the above, we find no error in the order of the learned CIT(A). It has correctly been held by the first appellate authority, inter alia that as per Form No. 10CCB filed during the assessment proceedings, the claim made by the assessee was admissible and the same remained to be allowed. The order of the learned CIT(A) is hereby upheld in view of the above discussion. The grievance of the Department stands rejected.

5. In view of the finding that the assessee was not making any fresh claim and had duly furnished the documents and submitted form for claim u/s 80-IB, there was no requirement for filing any revised return. The judgment relied upon was not applicable.

6. Accordingly, we are unable to hold that any substantial question of law arises. The appeal is dismissed.