
(2019) 02 UK CK 0040

In the Uttarakhand High Court

Case No : Income Tax Appeal No. 3 Of 2019

Principal Commissioner Of Income Tax

APPELLANT

Vs

M/s Laxmi Electronic

RESPONDENT

Date of Decision : 21-02-2019

Acts Referred:

Income Tax Act, 1961 — Section 10A, 10AA, 10B, 10BA, 28 To 44BB, 80A(5), 80IC, 260A

Citation : (2019) 02 UK CK 0040

Hon'ble Judges : Ramesh Ranganathan, CJ; R.C. Khulbe, J

Bench : Division Bench

Advocate : Hari Mohan Bhatia

Final Decision : Dismissed

Judgement

Ramesh Ranganathan, CJ

1. This appeal is preferred against the order passed by the Income Tax Appellate Tribunal, New Delhi in ITA No.1994/Del./2015 dated 10.09.2018. Aggrieved by the said order, the Revenue has invoked the jurisdiction of this Court under Section 260A of the Income Tax Act.

2. The respondent-assessee claims to have purchased goods worth Rs.73,91,587/- in Faridabad for his business activities at Haridwar. Holding that these purchases had not been made, the claim of the respondent-assessee for deduction of Rs.73,91,587 was disallowed, and the respondent-assessee was subjected to tax under the Income Tax Act on the resultant enhanced profit from business.

3. The assessee carried the matter in appeal to the Commissioner of Income Tax (Appeals) who deleted the additions made by the Assessing Officer, allowing them the benefit, under Section 80IC of the Income Tax Act, on the entire eligible income. Aggrieved thereby, the Revenue carried the matter in appeal to the Tribunal.

4. In the order under appeal, the Tribunal observed that the assessee-unit was eligible for deduction u/s 80IC; it was not in dispute that the assessee was entitled to the benefit of Section 80IC on the entire eligible income; it was also not in dispute that the Assessing Officer had granted relief to the assessee, under Section 80IC, qua the sum of Rs.73,91,587/- claimed in the return of income; when the profits, for the purposes of Section 80IC, were to be calculated as per Sections 28 to 44BB of the Income Tax Act, the purchases were also covered thereunder; while calculating the profits of any business, purchases were also deductible expenditure; disallowance of purchases resulted in reduction in the purchases amount and, consequently, increase in the profit which would be again be eligible for exemption u/s 80IC of the Income Tax Act; it would not increase the income tax liability of the assessee, which would remain the same even if the purchases were disallowed; the contention of the Revenue, that the assessee had not made any claim in the return of income for the amount claimed as deduction and, therefore, the deduction should not be allowed in view of Section 80A(5) of the Income Tax Act, was not sustainable; the assessee had made the claim in his return as the Assessing Officer had, himself, shown the income from business as Rs.3,36,83,304/-; in these circumstances, deduction u/s 80IC was allowed on profit; the contention of the Revenue, that the assessee had not made this claim in the return, was wrong and incorrect; the entire profit of the assessee was exempt u/s 80IC; and the learned Commissioner of Income Tax (Appeals) had rightly deleted the deduction u/s 80IC wrongly made by the Assessing Officer on account of inflated purchases.

5. Deduction u/s 80IC of the Income Tax Act is, admittedly, available to the undertaking of the assessee. The deduction therein is 100% of the profits. As has been held both by the Commissioner of Income Tax (Appeals), and the Tribunal, even if a part of the purchases made by the assessee is held ineligible for deduction it would only result in an increase in the profits of the undertaking; and, since the entire profits of an undertaking is eligible for deduction under Section 80IC of the Income Tax Act, it mattered little whether or not a portion of the purchases, effected by the assessee, was disallowed.

6. While we are satisfied that the deduction allowed by the Commissioner of Income Tax (Appeals), as confirmed by the Tribunal, does not necessitate interfere in an appeal under Section 260A of the Income Tax Act, Mr. Hari Mohan Bhatia, learned Senior Standing Counsel for Income Tax, would draw our attention to Section 80A(5) of the Income Tax Act to contend that, since the assessee did not claim this expenditure, the Commissioner of Income Tax (Appeals) and the Tribunal could not have extended to them the benefit under Section 80IC of the Act. Section 80A(5) stipulates that, where the assessee fails to make a claim in his return of income for any deduction under Section 10A or Section 10AA or Section 10B or Section 10BA or under any provision of this Chapter under the heading "C.-Deductions in respect of certain incomes", no deduction shall be allowed to him thereunder. The said provision only obligates the Assessing Authority not to allow any deductions which the assessee has not

claimed.

7. As noted by the Tribunal, in the order under appeal, the assessee, in the present case, had claimed deduction towards purchases made by him. These deductions were disallowed by the Assessing Authority. Since the assessee had made such a claim for deduction, the Tribunal has rightly held that Section 80A(5) of the Act is not applicable.

8. Interference, under Section 260A of the Act, is justified only if the appeal gives rise to a substantial question of law. It is only if the findings recorded by the Tribunal, on facts, is based on no evidence, or the findings are perverse, would it give rise to a substantial question of law warranting interference in proceedings under Section 260A of the Income Tax Act. We find no such infirmity in the order under appeal.

9. When we asked Mr. Hari Mohan Bhatia, learned Senior Standing Counsel, as to whether the Assessing Officer had ascertained the genuineness of the purchases made by the assessee, learned Senior Standing Counsel would submit that, during the pendency of the appeal before the Commissioner of Income Tax (Appeals), the Assessing Officer was directed to verify the genuineness of the purchases made by the assessee; and, on such verification, the Assessing Officer found that the assessee had, in fact, made such purchases.

10. In the light of this submission, it is clear that the Assessing Officer should, in the first instance, not have made any deduction on the ground of inflated purchases, since the purchases were in fact, even according to the learned Senior Standing Counsel for Income Tax, made by the assessee.

11. Viewed from any angle, we are satisfied that no interference is called for, under Section 260A of the Income Tax Act, against the order of the Tribunal. The appeal fails and is, accordingly, dismissed. No costs.