

The Commissioner of Income Tax Vs Hydro S and S Industries Ltd.

Court: Madras High Court

Date of Decision: April 28, 2009

Acts Referred: Income Tax Act, 1961 " Section 115JA, 115JA(1A), 80G, 80HHC, 80IB

Hon'ble Judges: P.P.S. Janarthana Raja, J; K. Raviraja Pandian, J

Bench: Division Bench

Advocate: Arun Kurian Joseph, for the Appellant;

Final Decision: Dismissed

Judgement

K. Raviraja Pandian, J.

The revenue is on appeal before us against the order of the Income Tax Appellate Tribunal, Madras A Bench,

made in ITA No. 2193/Mds/2007 dated 19.9.2008 relating to the assessment year 2000-01.

2. The assessee is in the business of manufacture and sale of plastic components. For the assessment year 2000-01, the assessee filed its return on

30.11.2000 showing total income as nil after claiming deduction u/s 80HHC, 80IB and 80G of the Act. In the assessment order, the assessing

officer restricted the deduction u/s 80IB to Rs. 31,03,942/- in the computation of Book Profits for the purpose of Section 115JA. Aggrieved by

the said order the assessee filed an appeal before the Commissioner of Income Tax (Appeals), who allowed the appeal in favour of the assessee.

The revenue carried the matter on further appeal to the Income Tax Appellate Tribunal. The Tribunal allowed the appeal in favour of the assessee

following an order of the Mumbai Special Bench in the case of Syncome Formulations (I) Ltd. The correctness of the same is now canvassed in

this appeal by formulating the following substantial question of law:

Whether in the facts and circumstances of the case, the Tribunal was right in allowing deduction u/s 80IB on the basis of book profits u/s 115JA

and not on the basis of eligible profits u/s 80IB as per normal computation?

3. When the matter is taken up for orders, the learned Counsel appearing for the revenue fairly submitted that the issue is covered against the

revenue and in favour of the assessee by the decision of the Division Bench of this Court in the case of Commissioner of Income Tax Vs.

Rajanikant Schnelder and Associates P. Ltd., wherein it was held that the use of the words ""in accordance with the provisions of Parts II and III of

Schedule VI to the Companies Act"" in Section 115JA of the Income Tax Act, 1961 is made for a limited purpose of empowering the Assessing

Officer to rely upon the authentic statement of accounts of the company. While so looking into the accounts of the company, he has to accept the

authenticity of the accounts with reference to the provisions of the Companies Act which obligates the company to maintain its accounts in a

manner provided by that Act and the accounts to be scrutinised and certified by the statutory auditors and approved by the company in the general

meeting and thereafter, to be filed before the Registrar of Companies, who has a statutory obligation to examine and be satisfied that the accounts

of the company are maintained in accordance with the requirements of the Companies Act. Sub-section (1A) of Section 115JA does not empower

the Assessing Officer to embark upon a fresh enquiry in regard to the entries made in the books of account of the company. It was further held by

the Division Bench of this Court that the assessing officer was not entitled to alter the profit and loss account prepared by the assessee under the

provisions contained in the Companies Act while arriving at the book profit u/s 115JA and the book profit so arrived at should be basis for

taxation and therefore, the computation u/s 80HHC should be limited to the case of profits of eligible category only. The finding arrived at by the

Tribunal was correct and in conformity with the decision of the Supreme Court.

4. The question of law framed in this appeal is identical to the one considered by the Division Bench. Hence, the appeal is dismissed as the

question of law has already been decided in favour of the assessee and against the Revenue.