

(2014) 03 KL CK 0137
High Court Of Kerala
Case No: I.T.A. No. 155 of 2013

Commissioner of Income Tax

APPELLANT

Vs

Midas Polymer Compounds P.
Ltd.

RESPONDENT

Date of Decision: March 3, 2014

Acts Referred:

- Income Tax Act, 1961 - Section 80-IB

Citation: (2014) 363 ITR 309

Hon'ble Judges: Manjula Chellur, C.J; A.M. Shaffique, J

Bench: Division Bench

Advocate: P.K.R. Menon, Senior Counsel, Government of India (Taxes) and Jose Joseph, Standing Counsel for Income-tax, Advocate for the Appellant

Judgement

Dr. Manjula Chellur, C.J.

The Revenue is before this court aggrieved by the orders of the Appellate Tribunal. In brief, the facts that lead to the filing of the present appeal is as under. The assessee is a private limited company engaged, in pre-cured tread rubber. The activities of the assessee, according to the Revenue, are manufacturing rubber treading material and rubber compound and mixing on job work basis. The present appeal pertains to the assessment year 2007-08. The Revenue opined that the assessee included the income from mixing on job work basis also in the profits liable for deduction u/s 80-IB of the income tax Act. However, according to the Assessing Officer, the said income was not liable for deduction, therefore, rejected the claim of the assessee. According to the stand of the Revenue, that in mixing, the complete manufacturing does not occur and it is only one of the several processes involved in the work, therefore, the claim that mixing charges also constitute income from "manufacturing" was rejected. This came to be challenged by the assessee and the first appeal came to be rejected. The assessee approached the Tribunal and the Tribunal initially rejected the claim. But, later on when the Full Bench decision of the

High Court in I.T.A. No. 84 of 2009, dated December 21, 2010, [Midas Polymer Compounds \(P\) Ltd. Vs. Assistant Commissioner of Income Tax](#), was brought to the notice of the Tribunal, it considered the miscellaneous application. The Tribunal has also now held that the assessee is eligible for such deduction. So far as I.T.A. No. 84 of 2009, [Midas Polymer Compounds \(P\) Ltd. Vs. Assistant Commissioner of Income Tax](#), the Revenue did not file SLP before the Supreme Court as the tax effect was below the prescribed monetary limits for filing special leave petition. The fact remains that as on today the Full Bench decision in I.T.A. No. 84 of 2009 [Midas Polymer Compounds \(P\) Ltd. Vs. Assistant Commissioner of Income Tax](#), is the law declared on the subject matter.

2. In that view of the matter, we decline to interfere with the orders of the authorities concerned and, accordingly, the appeal is dismissed in terms of I.T.A. No. 84 of 2009, dated December 21, 2010 [Midas Polymer Compounds \(P\) Ltd. Vs. Assistant Commissioner of Income Tax](#),).