2025 INSC 743

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.14318 OF 2015

Shital Fibers Limited **...Appellant**

versus

Commissioner of Income Tax **...Respondent**

with

CIVIL APPEAL NOS. 14295/2015, 14299/2015, 14297/2015, 14301/2015, 14304/2015, 14305/2015, 14309/2015, 14324/2015, 14319/2015, 14313/2015, 14323/2015, 14314/2015, 14322/2015, 14320/2015, 14337/2015, 14339/2015, 14340/2015, 14346/2015, 14347/2015, SLP (C) No. 19698/2014, SLP(C) No. 36539/2014, SLP (C) 9723 of 2018 and SLP (C) No. 28934 of 2019

J U D G M E N T

ABHAY S. OKA, J.

1. This group of appeals/petitions has been referred to a Bench of three Judges in view of the Order dated 10th December, 2015 in ***Assistant Commissioner of Income Tax, Bangalore v. Micro Labs Limited***[1] which records difference of opinion between two Hon'ble Judges of this Court.

2. For the sake of convenience, we are referring to facts of the case in Civil Appeal No. 14318 of 2015. We may note here

1 (2015) 17 SCC 96

that some of the appeals in the group have been disposed of by the Order dated 01st August, 2024 due to low tax effect.

FACTUAL ASPECT

3. We are referring to the facts of the case in Civil Appeal No. 14318 of 2015. Appellant is a company which filed a return declaring net taxable income at Rs. 46,99,293/- for the Assessment Year 2002-03. The appellant claimed deductions under Section 80-HHC and 80-IA of the Income Tax Act, 1961 (for short 'the IT Act'). The return was accepted on 31st October, 2002. Reassessment proceedings under Section 147 of the IT Act were initiated in respect of the said Assessment Year by the order dated 10th December 2008 by the Assistant Commissioner of Income-Tax, Range II, Jalandhar. Reliance was placed by the Revenue on the decision of Income Tax Appellate Tribunal (for short 'ITAT'), Chennai (Special Bench) in the case of ***ACIT v. Rogini Garments***[2]. In the said Order dated 10th December, 2008, under Section 147 of the IT Act, it was observed that a deduction of Rs. 90,43,347/- was claimed by the appellant under Section 80-IB on the total profit of Rs. 4,19,40,609/-. The appellant claimed a deduction of Rs. 1,76,90,799/- under Section 80-HHC.

4. The return filed by the appellant was processed under Section 143(1)(a) and a statutory notice under Section 148 of the IT Act was served upon the appellant. Based on the judgment dated 17th July, 2008 of the jurisdictional ITAT, in

2 (2007) SCC OnLine ITAT 159

ITA Nos.320 and 321, Amritsar Bench in respect of appellant's case for the assessment year 2003-04 and 2004-05, a fresh notice under Section 143(2) was served upon the appellant.

5. We may note here that in the case of ***ACIT v. Rogini Garments***[2], ITAT held that in order to prevent the taxpayers from taking undue advantage of existing provisions of the IT Act by claiming repeated deductions in respect of the same amount of eligible income, in-built restriction was introduced by enacting Sub-section (9) of Section 80-IA with effect from 1st April, 1999.

6. The appellant filed response to the notice under Section 143(2). The appellant relied upon the decision of Madras High Court in the case of ***SCM Creations v. ACIT***[3] wherein it was held that Sub-section (9) of Section 80-IA does not bar computation of deductions provided under different provisions of the IT Act. But, it merely restricts the allowability of deductions to the extent of profits and gains of business. However, by the Order dated 12th March, 2009, Additional Commissioner of the Income Tax rejected the argument of the appellant and deductions claimed by the appellant under Section 80-IA and 80-HHC were disallowed.

7. The appeal preferred by the appellant against the said Order was dismissed by Commissioner of Income Tax (Appeals). In appeal preferred by the appellant before the ITAT, the appellant was unsuccessful. Thereafter, an appeal was

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3 304 ITR 319

preferred before the Punjab and Haryana High Court which came to be dismissed by the impugned judgment and order. The High Court relied upon its own decision in the case of ***Friends Casting (P) Ltd. v. Commissioner of Income Tax***[4]. The High Court took the view that Sub-section (9) of Section 80-IA bars claim for deduction under any other provision of Chapter VI-A, if deduction under Section 80-IA has been allowed. In fact, a decision of Bombay High Court in the case of ***Associated Capsules (P) Ltd. v. Deputy Commissioner of Income Tax and Anr***[5] was also referred**.** However, the High Court did not agree with the view taken by Bombay High Court. In addition, the High Court relied upon a decision of Delhi High Court in the case of ***Great Eastern Exports v. Commissioner of Income Tax***[6].

SUBMISSIONS

8. Learned senior counsel appearing for the appellant invited our attention to Chapter VI-A. He pointed out that there are 33 different provisions under the heading 'C' of Chapter VI-A which includes Section 80-HHC, 80-IA, 80-IAB, 80-IB etc. He pointed out that it is possible for the assessee to claim deductions under each of 33 sections. He submitted that legislature has allowed each eligible assessee to claim deductions through 33 provisions under heading 'C' of Chapter VI-A. He submitted that the real issue is the extent of

4 (2011) 50 DTR Judgments 61
5 (2011) SCC Online Bombay 27
6 (2010) SCC OnLine Del 4195

deduction allowable separately under Section 80-IA and Section 80-HHC and the extent of deduction allowable through each provision and overall deduction allowable by adding them up.

9. Learned counsel invited our attention to the opinion expressed by Anil R. Dave, J. He pointed out that heading 'C' deals with profit and income related deductions. He pointed out that Section 80-A(1) provides that in computing total income of assessee, there shall be allowed from gross total income of an assessee in accordance with and subject to the provisions of this Chapter, the deductions specified in Section 80-C to 80-U. He pointed out that the residue after deductions is the total income on which income tax is levied. It was submitted that the upper limit of profit applies under the heading 'C' only in view of Sub-section (9) of Section 80-IA.

10. Learned senior counsel invited our attention to the view taken by Dipak Misra, J (as he then was) and submitted that the said view is a correct view for the reasons recorded therein.

11. Learned Additional Solicitor General appearing for the Revenue supported the view taken by Anil R. Dave, J. He submitted that the learned Judge rightly held that if an assessee claims any deduction under the provisions of Section 80-IA and/or 80-IB, he cannot claim any deduction to the extent of such profits and gains which had been claimed

and allowed under the provisions of Section 80-HHC. The reason being Section 80-HHC is included in heading 'C' of Chapter VI-A of the IT Act. He submitted that the profits in respect of which deduction was allowed under Section 80-HHC had also been previously allowed under Section 80-IB.

CONSIDERATION

12. Under Section 4 of the IT Act, Income Tax is chargeable on the total income of an assessee for previous year. Chapter II of the IT Act deals with the ambit of total income. Chapter III deals with incomes which do not form part of the total income at all. Chapter IV deals with the computation of total income under different sources. Chapter V deals with income of other persons which are to be included in the assessee's total income. Chapter VI provides for aggregation of income from different sources or set off or carry forward of loss to the next assessment year. Chapter VI-A specifically deals with deductions to be made in computing the total income. Thus, the gross total income of the assessee is worked out by applying various provisions upto and inclusive of stage of Chapter VI.

13. Chapter VI-A deals with deductions to be made in computing income. Chapter VI-A contains Sections 80-A to 80-U. It has five heads, head 'A' – General, 'B' – Deductions in respect of certain payments, 'C' – Deductions in respect of certain incomes, 'CA' – Deductions in respect of other incomes and 'D' – Other deductions.

14. Section 80 A under the Heading 'A – General' provides that in computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of this Chapter VI, the deductions specified in Section 80-C to 80-U. Section 80-AB provides that where any deduction is required to be made or allowed under any Section included in Chapter VI-A under the heading 'C' in respect of any income of the nature specified in that Section which is included in the gross total income of the assessee, then, notwithstanding anything contained in that Section, for the purposes of computing the deduction under that Section, the amount of income of that nature as computed in respect of the provisions of IT Act (before making any deduction under Chapter VI-A) shall alone be deemed to be the amount of income of that nature which is derived or received by assessee and which is included in his gross income.

15. Sub-section (5) of Section 80-B defines gross total income as the total income computed in accordance with provisions of the IT Act, before making any deduction under Chapter VI-A. At this stage, we may note that under Section 4(1), which is the charging section, income tax is chargeable on total income of the previous year. Sections 80-A and 80-AB refer to gross total income and not total income as contemplated by Section 4(1). As stated earlier, Sections 80-C to 80-GGC under heading 'B' provide for deductions in respect of certain payments. In this case, we are concerned with

deductions under Sections 80-HHC and 80-IA and 80-IB under Heading 'C'.

16. The relevant part of Section 80-HHC is reproduced below:

> "**80-HHC.*Deduction in respect of profits retained for export business***.—(1) Where an assessee, being an Indian company or a person (other than a company) resident in India, is engaged in the business of export out of India of any goods or merchandise to which this section applies, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction to the extent of profits, referred to in sub-section (1-B) derived by the assessee from the export of such goods or merchandise:
>
> Provided that if the assessee, being a holder of an Export House Certificate or a Trading House Certificate (hereafter in this section referred to as an export house or a trading house, as the case may be), issues a certificate referred to in clause (*b*) of sub-section (4-A), that in respect of the amount of the export turnover specified therein, the deduction under this sub-section is to be allowed to a supporting manufacturer, then the amount of deduction in the case of the assessee shall be reduced by such amount which bears to the total profits derived by the assessee from the export of trading goods, the same proportion as the amount

of export turnover specified in the said certificate bears to the total export turnover of the assessee in respect of such trading goods.

(1-A)* * *

(1-B) For the purposes of sub-sections (1) and (1-A), the extent of deduction of the profits shall be an amount equal to—

(*i*) eighty per cent thereof for an assessment year beginning on the 1st day of April, 2001;

(*ii*) seventy per cent thereof for an assessment year beginning on the 1st day of April, 2002;

(*iii*) fifty per cent thereof for an assessment year beginning on the 1st day of April, 2003;

(*iv*) thirty per cent thereof for an assessment year beginning on the 1st day of April, 2004.

and no deduction shall be allowed in respect of the assessment year beginning on the 1st day of April, 2005 and any subsequent assessment year.

……."

Section 80-HHC provides for a deduction in respect of profits retained for export business. The provision is applicable to a company or a person engaged in business of export out of India of any goods or mercantile to which the Section applies. In computing the total income, the assessee is entitled to

deduction to the extent of percentage of profits set out in Sub-section (1B) of Section 80-HHC.

17. Section 80-IA deals with deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development etc. Sub-section (1) provides that when the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in Sub-section (4), in computing total income, the assessee will be entitled to deduction of an amount equal to hundred per cent of profits and gains derived from such business for ten consecutive years.

18. Section 80-IB deals with deductions in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings. The deduction under said provision is applicable when gross total income of an assessee includes any profit or gain derived from any business mentioned in various Sub-sections of Section 80-IB. An assessee is entitled to a deduction from such profits and gains of an amount equal to such percentage and for such number of assessment years as specified in the Section.

19. In this context, now the provision of Sub-section (9) of Section 80-IA must be considered. Sub-section (9) of Section 80-IA reads thus:

> "(9) Where any amount of profits and gains of an undertaking or of an enterprise in the

> case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provisions of this Chapter under the heading 'C.—Deductions in respect of certain incomes,' and shall in no case exceed the profits and gains of such eligible business of undertaking or enterprise, as the case may be."

Let us analyse Sub-section (9). It is applicable where any amount of profits and gains of an undertaking or enterprise is claimed and allowed under Section 80-IA. As stated earlier, the deduction is to the extent of percentage of profits and gains derived from certain category of businesses. Sub-section (9) of Section 80-IA provides that the deduction to the extent of profit or gain shall not be allowed under any other provisions under heading 'C' of Chapter VI-A. It is further provided in Sub-section (9) that in no case, the deduction allowed under any other provision of Chapter VI-A under the heading 'C' shall exceed profits and gains of such eligible business of undertakings or enterprises, as the case may be.

20. Therefore, on plain reading of Sub-section (9) of Section 80-IA, if a deduction of profits and gains under Section 80-IA is claimed and allowed, the deduction to the extent of such profits and gains in any other provision under the heading 'C' is not allowed. The deduction to the extent allowed under Section 80-IA cannot be allowed under any other provision

under heading 'C'. Therefore, if deduction to the extent of 'X' is claimed and allowed out of gross total income of 'Y' under Section 80-IA and the assessee wants to claim deduction under any other provision under the heading 'C', though he may be entitled to deduction 'Y' under the said provision, he will get deduction under the other provisions to the extent of (Y-X) and in no case total deductions under heading 'C' can exceed the profits and gains of such eligible business of undertaking or enterprise.

21. Sub-section (9) of Section 80-IA, on its plain reading, does not provide that when a deduction is allowed under Section 80-IA, while considering the claim for deduction under any of the provision under heading 'C', the deduction allowed under Section 80-IA should be deducted from the gross total income. The restriction under sub-section (9) of Section 80-IA is not on computing the total gross income. It restricts deduction under any other provision under heading 'C' to the extent of the deduction claimed under Section 80-IA.

22. Bombay High Court, in the case of ***Associated Capsules (P) Ltd. v. Deputy Commissioner of Income Tax and Anr***[4] in paragraphs 38 and 39 held thus:

> **"39.** Strong reliance was also placed by the counsel for the Revenue on the Special Bench decisions of the Tribunal in the case of Rogini Garments (2007) 294 ITR (AT) 15 (Chennai)

and Hindustan Mint and Agro Products P. Ltd. (2009) 315 ITR (AT) 401 (Delhi), which are affirmed by the Delhi High Court in the case of Great Eastern Exports (2011) 332 ITR 14. Reliance is also placed on decision of the Kerala High Court in the case of Olam Exports (India) Ltd. (2011) 332 ITR 40, which supports the case of the Revenue.

40. We find it difficult to subscribe to the views expressed by the Delhi High Court in interpreting the provisions of section 80-IA(9). In that case, in fact, the counsel for the Revenue had argued (see paragraph 38 of the judgment) that section 80-IA(9) applies at the stage of allowing deduction and not at the stage of computing deduction under other provisions under heading C of Chapter VI-A. It was argued that in the matter of grant of deduction, the first stage is computation of deduction and the second stage is the allowance of the deduction. Computation of deduction has to be made as provided in the respective sections and it is only at the stage of allowing deduction under section 80-IA(1) and also under other provisions under heading C of Chapter VI-A, the provisions of section 80-IA(9) come into operation. While accepting the arguments advanced by the counsel for the Revenue, it appears that the Delhi High Court failed to consider the important argument of the Revenue noted in paragraph 38 of its judgment. Moreover, without rejecting the argument of the Revenue that section 80-IA(9) applies at the stage of

allowing the deduction and not at the stage of computing the deduction, the Delhi High Court could not have held that section 80-IA(9) seeks to disturb the method of computing the deduction provided under other provisions under heading C of Chapter VI-A of the Act. In these circumstances, we find it difficult to concur with the views expressed by the Delhi High Court in the case of Great Eastern Exports [2011] 332ITR 14. For the same reason, we find it difficult to subscribe to the views expressed by the Kerala High Court in the case of Olam Exports [2011] 332ITR 40.

41. In the result, we hold that section 80-IA(9) does not affect the computability of deduction under various provisions under heading C of Chapter VI-A, but it affects the allowability of deductions computed under various provisions under heading C of Chapter VI-A, so that the aggregate deduction under section 80-IA and other provisions under heading C of Chapter VI-A do not exceed 100 per cent. of the profits of the business of the assessee. Our above view is also supported by the Central Board of Direct Taxes Circular No. 772 dated December 23, 1998 ((1999) 235 TR (St.) 35), wherein it is stated that section 80-IA(9) has been introduced with a view to prevent the taxpayers from claiming repeated deductions in respect of the same amount of eligible income and that too in excess of the eligible profits. Thus, the object of section 80-IA(9) being not to curtail the deductions

computable under various provisions under heading C of Chapter VI-A, it is reasonable to hold that section 80-IA(9) affects allowability of deduction and not computation of deduction. To illustrate, if Rs.100 is the profits of the business of the undertaking, Rs. 30 is the profits allowed as deduction under section 80-IA(1) and the deduction computed as per section 80HHC is Rs. 80, then, in view of section 80-IA(9), the deduction under section 80HHC would be restricted to Rs. 70, so that the aggregate deduction does not exceed the profits of the business."

23. Hence, we find that the view taken by the Bombay High Court is correct. Dipak Misra, J (as he then was), in paragraphs 47 and 48 of the decision in the case of ***Assistant Commissioner of Income Tax, Bangalore v. Micro Labs Limited***[1] approved the view taken by Bombay High Court in the aforesaid case. Paragraphs 47 and 48 read thus:

"**47.** It is in the context of Section 80-HHC that sub-section (9) of Section 80-I has come up for interpretation. There is no dispute that sub-section (9) of Section 80-I would be applicable as the assessee would be entitled to deduction under Section 80-IA as well as under Section 80-HHC. The contention of the Revenue is that the said sub-section mandates that deduction under Section 80-HHC has to

be computed not only on the profits of business as reduced by the amounts specified in clause (*baa*) and sub-section (4-B) of Section 80-HHC but by also reducing the amount of profit and gains allowed as a deduction under Section 80-IA(1) of the Act. In other words, the gross total income eligible for deduction under Section 80-HHC would be less or reduced by the deduction already allowed under Section 80-IA. Thus, the gross total income eligible for deduction would not be the gross total income as defined in sub-section (5) of Section 80-B read with Section 80-B, but would be the gross total income computed under sub-section (5) of Section 80-B read with Section 80-AB less the deduction under Section 80-IA. An example will make the position clear. Supposing an assessee has gross total income of Rs 1000 and is entitled to deduction under Sections 80-IA and 80-HHC and the deduction under Section 80-IA is Rs 300, then the gross total income of which deduction under Section 80-HHC is to be computed would be Rs 700, and not Rs 1000.

48. On the other hand, the case of the assessee is that the gross total income would not undergo a change or reduction for the purpose of Section 80-HHC. The two deductions will be computed separately, without the deduction allowed under Section 80-IA being reduced from the gross total income for computing the deduction under Section 80-HHC. The reason being that sub-

> section (9) of Section 80-IA does not affect computation of deduction under Section 80-HHC, but postulates that the deduction computed under Section 80-HHC so aggregated with the deduction under Section 80-IA does not exceed the profits of the business."

In paragraphs 53 and 54 of the same decision, it is held thus:-

> **"53.** The first part of sub-section (9) of Section 80-IA refers to the computation of profits and gains of an undertaking or enterprise allowed under Section 80-IA in any assessment year and the amount so calculated shall not be allowed as a deduction under any other provisions of this Chapter. It is in this context that the Bombay High Court has rightly pointed out that there is a difference between allowing a deduction and computation of deduction. The two have separate and distinct meanings. Computation of deduction is a stage prior and helps in quantifying the amount, which is eligible for deduction. Sub-section (9) of Section 80-IA does not bar or prohibit the deduction allowed under Section 80-IA from being included in the gross total income, when deduction under Section 80-HHC(3) of the Act is computed. In this context it has been held that the expression "shall not be allowed" cannot be equated with the words "shall not qualify" or "shall not be allowed in computing deduction". The effect thereof

would be that while computing deduction under Section 80-HHC, the gross total income would mean the gross total income before allowing any deduction under Section 80-IA or other sections of Part C of Chapter VI-A of the Act. But once the deduction under Section 80-HHC has been calculated, it will be allowed, ensuring that the deduction under Sections 80-HHC and 80-IA when aggregated do not exceed profits and gains of such eligible business of undertaking and enterprise.

54. As I find, the legislature has used the expression "shall not qualify" in Sections 80-HHB(5) and 80-HHD(7), but the said expression has not been used in sub-section (9) of Section 80-IA. The formula prescribed in sub-section (3) of Section 80-HHC is a complete code for the purpose of the said computation of eligible profits and gains of business from exports of mercantiles and goods. It has reference to total turnover, turnover from exports in proportion to profits and gains from business in clause (*a*) and so forth under clauses (*b*) and (*c*) of Section 80-HHC(3) of the Act. In case the gross total income is reduced or modified taking into account the deduction allowed under Section 80-IA, it would lead to absurd and unintended consequences. It would render the formula under sub-section (3) of Section 80-HHC ineffective and unworkable as highlighted in para 30 of the decision in *Associated Capsules (P) Ltd.* [*Associated Capsules (P) Ltd.* v. *CIT*, 2011 SCC OnLine Bom 27 : (2011) 332 ITR 42 (Bom)] with reference to clause (*b*) of Section

> 80-HHC(3). Even when I apply clause (*a*) and calculate eligible deduction under Section 80-HHC, it would give an odd and anomalous figure. To illustrate, I would like to expound on the earlier example after recording that the gross total income of Rs 1000 was on assumed total turnover of Rs 10,000 which includes export turnover of Rs 5000 and the deduction allowable under Section 80-IA was 30% and the deduction allowable under Section 80-HHC was 80% of the eligible profits as computed under Section 80-HHC(3). The stand of the Revenue is that without alteration or modification of the figures of total turnover and the export turnover, the gross total income would undergo a reduction from Rs 1000 to Rs 700 as Rs 300 has been allowed as a deduction under Section 80-IA. This would result in anomaly for the said figure would not be the actual and true figure or the true gross total income or profit earned on the total turnover including export turnover and, therefore, would give a somewhat unusual and unacceptable result. There is no logic or rationale for making the calculation in the said impracticable and unintelligible manner."

24. In view of what we have held above, we find that the interpretation made by the Bombay High Court in the case of ***Associated Capsules (P) Ltd. v. Deputy Commissioner of Income Tax and Anr***[4] appears to be logical and correct.

25. We accordingly, answer the reference and direct the Registry to place the appeals/petitions before appropriate Bench.

.....J.
(Abhay S. Oka)

.....J.
(Ahsanuddin Amanullah)

.....J.
(Augustine George Masih)

New Delhi;
May 20, 2025.