

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Fourth day of March Two Thousand Twenty

PRESENT

THE HON`BLE DR JUSTICE VINEET KOTHARI

AND

THE HON`BLE MR JUSTICE R. SURESH KUMAR

WA Nos.1520 TO 1522 OF 2012

1 ASSISTANT COMMISSIONER OF [APPELLANTS IN BOTH THE APPEALS]
INCOME TAX, COMPANY CIRCLE VI(4), NEW BLOCK,
VII FLOOR, ROOM NO.705, 121, MAHATMA GANDHI
SALAI, CHENNAI-34.

2 COMMISSIONER OF INCOME-TAX,
RANGE-III, NEW BLOCK, IV FLOOR, ROOM NO.410,
121, MAHATMA GANDHI SALAI, CHENNAI-34.

Vs

1 M/S.STERLITE INDUSTRIES [RESPONDENT IN BOTH THE APPEALS]
(INDIA) LTD., REP. BY ITS GENERAL MANAGER
(FINANCE & ACCOUNTS) MR.A.SATISH, NO.55,
PILLAYAR KOIL STREET, NO.1, SAI FLATS,
KANAGAM, THARAMANI, CHENNAI-113.

Appeal under Clause 15 of the letters Patent against the
order of the THE HON`BLE MRS JUSTICE CHITRAVENKATARAMAN dated
19.12.2011 and made in the exercise of the Special Original
Jurisdiction of the High Court in the Writ Petition No.24476/2009
(in WA.No.1520/12) AND;

(II)Appeal under Clause 15 of the letters Patent against the
order of the THE HON`BLE MRS JUSTICE CHITRAVENKATARAMAN dated
19.12.2011 and made in the exercise of the Special Original
Jurisdiction of the High Court in the Writ Petition No.24477/2009
(in WA.No.1521/12) AND;

(III) Appeal under Clause 15 of the letters Patent against the
order of the THE HON`BLE MRS JUSTICE CHITRAVENKATARAMAN dated
19.12.2011 and made in the exercise of the Special Original
Jurisdiction of the High Court in the Writ Petition No.24478/2009
(in WA.No.1522/12) AND;

Order : These Appeals coming on for hearing on this day upon perusing the Grounds of appeal, the order of the THE HON'BLE MRS JUSTICE CHITRAVENKATARAMAN dated 19.12.2011 and made in exercise of the Special Original Jurisdiction of the High Court in WP.No.24476/2009 (in WA.No.1520/12) (2)WP.No.24477/2009 (in WA.No.1521/12) (3)WP.No.24478/2009 (in WA.No.1522/12) and all other papers material to this case and upon hearing the arguments of M/S.J.NARAYANASWAMY, Advocate for the Appellant in both the petitions the court made the following order:-

[Order of the Court was made by Dr.Vineet Kothari,J.]

Learned counsel for the Assessee may produce the fact sheet giving relevant dates, A.Ys. for availing the benefit by the Assessee under Section 80 IB of the Income Tax Act for the two units of Assessee in question and the relevant evidence which was produced before the Assessing Authority in the original assessment under Section 143(3) of the Act to establish that for the first five assessment years, relating to the previous year in which the commercial production was commenced by the two units of the Assessee viz., Chinchapada and Rakholi.

2.From the facts stated in the impugned order of the learned Single Judge, it appears that though the date of commencement of commercial production by the Assessee for both these units fall some financial year 1998-99 at Chinchapada Unit (CCR Refinery) on 1st April 1998, (AY 1999-2000), and for the second unit Rakholi Unit, the date of commencement of commercial production was on 22nd February, 1999 - FY 1998-999 (Assessment Year 1999-2000) but the Assessee started to avail the benefit for second Rakholi unit only for AY 2000-01.

3.The question therefore arises as to why for the first AY 1999-2000, no benefit under Section 80 IB was claimed by the Assessee for Rakholi unit, though it will be counted as first eligible A.Y. for that unit. There seems to be some disparity in the facts and the claims under Section 80 IB of the Act made by the Assessee.

4.Therefore, their right to challenge the initiation of re-assessment proceedings on the ground that Assessee could claim only 30% deduction under Section 80 IB in fifth year onwards and which A.Y. will be the fifth Assessment Year. The Assessee may give the statement of facts for perusal of this Court about their claims made for both these units under Section 80 IB of the Income Tax Act. They may also indicate the evidences, besides Director's Report viz., Certificate from the State Industries Department, Audit Report in prescribed Form 80 CCB from the Chartered Accountant or any other evidence on the basis of which, the date of commencement of commercial production was claimed by them in the Returns filed.

5.Put up the matter on 19.03.2020, as prayed.

-sd/-
04/03/2020
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

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C.C. to M/S.J.NARAYANASWAMY, Advocate on payment of necessary
charges

The Government Advocate, High Court, Madras - 104.

Order

in

WA.Nos.1520 to 1522 /2012

Date :04/03/2020

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