

Cit Vs. Hpsidc

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Court : Himachal Pradesh

Decided On : Nov-27-2007

Judge : Deepak Gupta, Actg. C.J. and; V.K. Ahuja, J.

Appellant : Cit

Respondent : Hpsidc

Judgement :

1. The following question has been referred for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in allowing deduction under Section 80J on the capital employed without reducing the proportionate liability of head office incurred in respect of units in which deduction under Section 80J was claimed ?

2. The brief facts are that the assessee had five units including the units of liquor bottling plant and television factory. The aforesaid two units were not eligible for purposes of deduction under Section 80J. In respect of the other three units, deduction was held to be allowable but the assessing officer reduced certain liabilities from the total assets of the head office on proportionate basis. The assessee had only reduced the current liability whereas the assessing officer found it necessary to ascertain the proportionate liability of the head office in respect of the secured and unsecured loans used for the purpose of the units. This is how claim under Section 80J was allowed at Rs. 50,732 only.

3. The assessee filed an appeal which was rejected. It then approached the Tribunal and the Tribunal agreed with the plea of the assessee that no liability of head office on proportionate basis was required to be reduced from the assets while working out deduction under Section 80J. Hence this question has been referred.

4. A similar question arose for decision in IT Appeal No. 3 of 1997 decided on 8-7-1997 (reported as CIT v. Himachol Pradesh Mineral & Industrial Development Corporatin (1999) 153 CTR (HP) 553 Ed.) and connected matters where the question was whether the assessee was entitled to deduction under Section 80J for the six units on the capital employed without reducing the same by the amount of loans raised from the head office. The contention of the revenue was rejected by the court. Both the parties admitted that this case is squarely covered by the decision rendered in the aforesaid case. Consequently, the reference is answered in favour of the assessee and against the revenue.

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