IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SRI JUSTICE P.SAM KOSHY

AND

THE HON'BLE SRI JUSTICE SUDDALA CHALAPATHI RAO

ITTA.Nos.30, 31 and 32 of 2009

Dt.19.06.2026

Between:

Krebs Biochemicals & Industries Ltd.

.... Appellant

and

Dy. Commissioner of Income Tax

...Respondent

COMMON JUDGMENT: *(Per the **Hon'ble Sri Justice Suddala Chalapathi Rao**)*

1. Since the instant appeals pertains to the very same assessee, but for different assessment years of 2002-03, 2003-04 and 2004-05 and as the dispute is one and the same, giving rise to common questions of law, all the appeals are heard analogously and decided by this common order.

2. The brief facts of the case are that, the appellant/assessee is a public limited company engaged in the manufacture and export of bulk drugs and is assessed to income tax under the jurisdiction of the Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad. For the

assessment years 2002-03, 2003-04 and 2004-05, the appellant filed its returns of income claiming deductions under Sections 80HHC and 80IB of the Income Tax Act, 1961 (for short 'the Act'). Upon scrutiny, the Assessing Officer completed the assessments under Section 143(3) by disallowing the claim relating to deferred sales tax liability under Section 43B for the respective assessment years and consequently restricting the deductions admissible under Sections 80HHC and 80IB of the Act.

3. Aggrieved by the aforesaid disallowance, the appellant/assessee preferred appeals before the Commissioner of Income Tax (Appeals) (for short, 'CIT(A)'). The CIT(A), however, dismissed the appeals and affirmed the orders passed by the Assessing Officer. The appellant thereafter carried the matter in further appeal before the learned Income Tax Appellate Tribunal (hereinafter referred to as 'ITAT'), which also upheld the findings of the Assessing Authority. Aggrieved by the orders passed by the learned ITAT in the respective ITAs, the appellant has preferred the present appeals before this Court.

4. The learned Assessing Officer, the CIT(A) and the learned ITAT have concurrently held that the appellant/assessee failed to establish that the deferred sales tax liability had been converted into a loan. It was further

observed that there was neither any agreement with the Commercial Tax Department regarding repayment of the deferred amount nor any evidence, such as an adjustment in the sales tax assessment order or corresponding entries in the Government accounts, demonstrating such conversion. It was also held that the mere issuance of an Eligibility Certificate enabling the assessee to avail the sales tax deferment scheme would not, by itself, amount to conversion of the liability into a loan so as to attract the benefit under Section 43B of the Act.

5. This Court has admitted the appeals for the following substantial questions of law:

a) Whether the Hon'ble Tribunal is justified in holding that the deduction claimed by the assessee being the sales tax deferment could have been disallowed under Section 43B of the Income Tax Act, 1961?

b) Whether on the facts and circumstances of the case, the Hon'ble Tribunal is justified in upholding the order of the lower authorities that the assessee is not entitled to deduction under Section 80 IB of the Income Tax Act, 1961, in respect of the export incentives?

c) Whether on the facts and circumstances of the case, the Hon'ble Tribunal is justified in holding that while computing deduction under Section 80HHC, the revenue can reduce the deduction claimed by the assessee/appellant under Section 80IB of the Income Tax Act, 1961?

6. Heard Sri Karan Talwar, learned counsel representing M/s CKR Associates for appellant/assessee and Ms J.Sunitha, the learned Senior Standing Counsel for Income Tax Department for respondent/Revenue.

CONTENTIONS OF THE COUNSEL FOR APPELLANT:

7. Though the instant appeals were admitted on substantial questions of law *(a), (b)* and *(c)*, the learned counsel for the appellant/assessee has not pressed *Question No.(b)* and has confined his submissions to Questions (a) and (c). In essence, the issues that arise for consideration are: *(a)* whether the sales tax deferment is liable to be disallowed under Section 43B of the Act; and *(c)* whether, while computing deduction under Section 80HHC, the deduction already allowed under Section 80IB is required to be reduced.

8. Insofar as *Substantial Question No.(a)*, the learned counsel for the appellant/assessee contends that the learned ITAT and the lower authorities erred in holding that the deferred sales tax liability had not been converted into a loan solely on the ground that the assessee failed to produce the agreement to that effect. He further submits that the appellant had admittedly produced the Eligibility Certificate and as such, the conversion of the sales tax liability into a loan need not necessarily

be evidenced by a formal agreement, and when once the competent authority passed adjustment orders giving effect to the deferment scheme by treating the sales tax dues as a loan liability, such adjustment itself constituted valid conversion. He further contends that the lower authorities, including the learned ITAT, failed to appreciate this aspect in its proper perspective. In this context, the learned counsel has drawn the attention of this Court to paragraph 9 of the order of the learned ITAT, which reads as follows:

> *"Apart from eligibility certificate, the assessee has to show that the liability was in fact converted into loan by way of an agreement or by way of entry in the Government Account or by way of set-off or adjustment in the sales tax assessment order."*

9. The learned counsel, referring to the above findings, submits that pursuant to audit proceedings under the VAT Act, the jurisdictional Commercial Tax Officer issued adjustment orders dt.27.06.2016 in respect of the assessment years 2002-03 and 2003-04, whereby excess tax available for subsequent years was adjusted towards the deferred sales tax dues relating to the earlier assessment years, and these adjustment orders specifically contain year-wise particulars of the deferred tax liability and clearly demonstrate that the deferred sales tax

liability stood recognized under the Government deferment scheme. It is further submitted that similar adjustment orders were subsequently passed in the years 2016, 2017 and 2022 and since the said orders were passed after the proceedings before the learned ITAT and even after the present appeals were filed, as such the appellant could not file them along with the appeals, but however, they were produced them before this Court by way of additional evidence, and that since the said adjustment orders are statutory orders passed by the Commercial Tax Officer, this Court can take judicial notice of the same and direct the authorities to consider them, even *de hors* the application filed under Order XLI Rule 27 of the Code of Civil Procedure.

10. The learned counsel further submits that the only basis on which the learned ITAT and the lower authorities rejected the appellant's claim was the absence of material evidencing conversion of the deferred sales tax liability into a loan. It is contended that since the subsequent adjustment orders issued by the Commercial Tax Officer conclusively establish that the deferred sales tax liability was treated by the Commercial Tax Department as a liability under the Government deferment scheme, repayable with interest, it thereby satisfies the very requirement observed by the learned ITAT. It is, therefore, contended

that the orders of the Assessing Officer, the Appellate Authority and the learned ITAT deserve to be set aside and the matter be remitted to the Assessing Officer for fresh consideration in the light of the adjustment orders passed by the Commercial Tax Officer for the years 2016, 2017 and 2022.

11. The learned counsel also placed reliance on Section 16C of the Andhra Pradesh General Sales Tax Act, 1957, as well as the subsequent amendment introduced by Act 25 of 2002, whereby the expression *"Government Loan extended to the dealer due to treating deferred tax as deemed to have been paid"* was incorporated, to contend that the amendment recognizes the statutory position that, upon conversion under the Government scheme, the deferred sales tax liability assumes the character of a Government loan. Reliance is also placed on CBDT Circular No.496, dt.25.09.1987, which clarifies that where sales tax liability is converted into a loan in accordance with a Government Scheme, such conversion is to be treated as payment for the purposes of Section 43B of the Act.

12. Learned counsel for the appellant therefore, submitted that the findings recorded by the learned ITAT and the lower authorities cannot

be sustained in view of the adjustment orders issued by the Commercial Tax Officer, which now satisfies the very deficiency noted by them, namely, the absence of material establishing conversion of the deferred sales tax liability into a loan, thereby entitling the appellant to the benefit under Section 43B of the Act.

13. The learned counsel also relies upon the decision of the Hon'ble Punjab and Haryana High Court in ***CIT v. Gopal Cotton Industries***[1], to contend that additional evidence, if found relevant, ought to be taken on record and the matter remitted to the Assessing Officer for verification of its authenticity and relevance, after affording an opportunity of hearing to the appellant/assessee. It is, therefore, urged that Substantial Question No.(a) deserves to be answered by remanding the matter to the Assessing Officer for fresh consideration for proper verification and consequential orders.

14. *Insofar as Substantial Question No.(c)*, the learned counsel for the appellant submits that the view adopted by the learned ITAT in reducing the deduction allowable under Section 80HHC by the amount of deduction granted under Section 80IB is contrary to law. Learned

[1] 2017 392 ITR 276 (P&H)

counsel further submits that though Section 80IA(9), made applicable to Section 80IB by virtue of Section 80IB(13), which was inserted to prevent double deduction of the same profits, the provision does not mandate reduction of the eligible profits while computing deduction under Section 80HHC. It is contended that the Tribunal erred in relying upon the decision in ***ACIT v. Rogini Garments***[2] to uphold the stand of the Department and consequently concluded that the deduction under Section 80IB has to be reduced while computing the deduction under Section 80HHC, and that the said interpretation is legally unsustainable.

15. In support of the above submission, the learned counsel places strong reliance upon the judgment of the Hon'ble Supreme Court in ***CIT v. Shital Fibers Ltd***.[3] particularly paragraphs 22 and 24, wherein it has been categorically held that the deduction allowable under Section 80IB cannot be excluded while computing the deduction under Section 80HHC. It is, therefore, submitted that the controversy now stands concluded by the law declared by the Hon'ble Supreme Court and, accordingly, Substantial Question No.(c) deserves to be answered in favour of the appellant/assessee.

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[2] (2007) 108 ITR 49 (Chennai) (SB)
[3] 2025 SCC Online SC 1178

CONTENTIONS OF THE COUNSEL FOR RESPONDENT:

16. Ms J.Sunitha, the learned Senior Standing Counsel for Income Tax Department appearing for respondent/Revenue while supporting the orders passed by the Assessing Officer, the Appellate Authority and the learned ITAT, submits that the appellant failed to produce any material before the authorities to establish that the deferred sales tax liability had been converted into a Government loan during the relevant assessment years, and that mere production of the Eligibility Certificate was not sufficient to claim the benefit under Section 43B of the Act, and that the Tribunal rightly held that the assessee was required to establish such conversion by cogent evidence, which it failed to do.

17. The learned Senior Standing Counsel further submits that the adjustment orders now relied upon by the appellant were not produced before any of the authorities below and cannot be relied upon at this stage to overcome the deficiencies in the appellant's case. She further contends that the concurrent findings recorded by the authorities are based on the material available before them and do not call for interference. Further, neither Section 16C of the Andhra Pradesh General Sales Tax Act nor CBDT Circular No.496 assists the appellant in the absence of proof of actual conversion of the deferred tax liability into a

Government loan, and therefore the learned Senior Standing Counsel vehemently opposes the request for remand for giving the benefit under Section 43B of the Act.

18. With regard to the deduction under Sections 80HHC and 80IB, the learned Senior Standing Counsel submits that the learned ITAT rightly upheld the computation made by the Assessing Officer by applying Section 80IA(9), read with Section 80IB(13), so as to avoid double deduction in respect of the same profits, and prays that the appeals be dismissed.

CONSIDERATION BY THE COURT:

SUBSTANTIAL QUESTION 'a':

19. Admittedly, the Assessing Officer, the CIT(A) and the learned ITAT rejected the claim of the appellant/assessee solely on the ground that no material had been placed on record to establish that the deferred sales tax liability had, in fact, been converted into a loan under the Government scheme. According to the authorities, there was neither any agreement with the Commercial Tax Department evidencing such conversion nor any statutory adjustment order or other contemporaneous record issued by the competent authority to

substantiate the appellant's claim. It was on this limited premise that the benefit claimed under Section 43B of the Act came to be denied.

20. For proper appreciation of the controversy, it is apposite to extract the relevant portion of Section 43B of the Income Tax Act, 1961:

> *"**43B. Certain deductions to be only on actual payment**.—*
> *Notwithstanding anything contained in any other provision of this Act, a deduction otherwise allowable under this Act in respect of—*
>
> *(a) any sum payable by the assessee by way of tax, duty, cess or fee, by whatever name called, under any law for the time being in force;*
>
> *...*
>
> *shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred according to the method of accounting regularly employed by the assessee) only in computing the income referred to in Section 28 of that previous year in which such sum is actually paid by him."*
>
> *……*
>
> *Explanation 4 (inserted to give effect to Government deferment schemes) clarifies that where a deduction in respect of any sum payable by way of tax, duty, cess or fee is deemed to have been actually paid under any scheme framed by the Central Government or a State Government, such amount shall be treated as having been actually paid for the purposes of this section.*
>
> *Note: The last paragraph (Explanation 4) is only accurate if your case concerns the deeming fiction introduced in relation to Government deferment schemes and the applicable assessment years. If this is*

intended to be part of a High Court judgment, it would be preferable to quote the exact statutory text applicable to AYs 2002-03 to 2004-05 from the Bare Act rather than paraphrase it.

....”

21. It is not in dispute that the assessment order was passed on 09.03.2006 and that the appellant/assessee had already been granted the benefit of sales tax deferment for the assessment years 2002-03 to 2004-05. It is equally undisputed that the Commercial Tax Officer subsequently issued Form VAT 205 adjustment orders in the years 2016, 2017 and 2022, for the respective assessment years, which were admittedly not available when the Assessing Officer completed the assessments. They were also not in existence when the appeals were heard by the learned ITAT or even when the present appeals were instituted before this Court.

22. Be that as it may, the adjustment orders have now been passed by the competent statutory authority, namely, the Commercial Tax Officer, in exercise of the powers vested in him under the relevant enactment. Though the appellant has filed applications under Order XLI Rule 27 of the Code of Civil Procedure seeking to bring the said documents on record, this Court is of the considered view that the adjustment orders, being statutory proceedings issued by the competent authority, cannot

be ignored, particularly when it is an admitted position that the appellant/assessee was extended the benefit of sales tax deferment for the assessment years in question.

23. The principal reason which weighed with the Assessing Officer as well as the learned ITAT in rejecting the appellant's claim was the absence of any material evidencing conversion of the deferred sales tax liability into a Government loan. The subsequent adjustment orders passed by the jurisdictional Commercial Tax Officer directly address this deficiency. Since these statutory orders were not available at the time when the assessment proceedings or the appellate proceedings were concluded, the appellant cannot be denied such benefit for their non-production. In these circumstances, in the interests of justice the Assessing Authority is required to afford an opportunity to the assessee to examine the effect of the said adjustment orders. Thus, in our considered view, the Assessing Authority is bound to consider the claim of the appellant/assessee afresh, keeping in view the adjustment orders passed by the Commercial Tax Officer, and extend the benefit under Section 43B of the Act by passing appropriate consequential orders.

24. Accordingly, insofar as Substantial Question of Law No.(a) is concerned, we hold that the matter deserves to be remitted to the Assessing Authority for the limited purpose of examining Form VAT 205 adjustment orders issued by the jurisdictional Commercial Tax Officer in the years 2016, 2017 and 2022. Upon such examination, the Assessing Authority shall determine the appellant's entitlement to the benefit claimed under Section 43B of the Act and pass appropriate consequential orders in accordance with law.

SUBSTANTIAL QUESTION 'c':

25. This issue no longer remains *res integra,* in view of the law laid down by the Hon'ble Supreme Court, in ***Shital Fibers Ltd.***'s case(supra), wherein the Hon'ble Supreme Court while considering an identical question, has held that the deduction admissible under Section 80IB cannot be excluded while computing the deduction under Section 80HHC. The principle laid down therein squarely governs the controversy involved in the present appeals.

26. For better understanding, the relevant observations contained in paragraphs 20 to 24 of the judgment in ***Shital Fibers Ltd.***'s case(supra), are extracted hereunder:

"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 Anr4 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 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 Limited1 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***(Civil Appeal No.1914 OF 2012, dt.08.02.2012) appears to be logical and correct."

27. In view of the law laid down by the Hon'ble Supreme Court in ***Shital Fibres Ltd***.'s case (supra), this substantial question of law stands settled in favour of the appellant/assessee.

28. The Hon'ble Supreme Court has clearly held that the deduction allowed under Section 80-IA/80-IB cannot be reduced while computing the deduction available under Section 80HHC. The provisions of Section 80-IA(9) only place a restriction on the total amount of deduction that can ultimately be allowed under various provisions of Chapter VI-A and do not provide for reducing the deduction already allowed under Section 80-IA/80-IB while calculating the deduction under another provision.

29. The Hon'ble Supreme Court has also upheld the view that the deductions under different sections of Chapter VI-A have to be computed separately in accordance with the respective provisions. After computing the deductions, it has to be ensured that the total deduction allowed does not exceed the eligible profits of the business. Therefore, the deduction granted under Section 80IB cannot be deducted from the profits while working out the deduction under Section 80HHC.

30. In the present case, the Assessing Officer, as well as the Appellate Authority and the learned ITAT, proceeded on the basis that the deduction allowed under Section 80IB has to be reduced while computing the deduction under Section 80HHC. Such a view is contrary to the law laid down by the Hon'ble Supreme Court. Once the legal position has been settled by the Hon'ble Supreme Court, the contrary view taken by the authorities below cannot be sustained.

31. Accordingly, the findings of the Assessing Officer, as confirmed by the Appellate Authority and the learned ITAT, are liable to be set aside. The substantial question of law is, therefore, answered in favour of the appellant/assessee and against the Revenue.

CONCLUSION:

32. In view of the above findings, all the appeals are *PARTLY ALLOWED*. The assessment orders passed by the Assessing Officer, as confirmed by the Commissioner of Income Tax (Appeals) and the learned ITAT, are all set aside to the extent indicated above. The matter is remitted back to the Assessing Officer to consider the Form VAT-205 adjustment orders issued by the jurisdictional Commercial Tax Officer during the years 2016, 2017 and 2022 and examine the effect of the said

statutory orders while reconsidering the claim of the appellant/assessee under Section 43B of the Income Tax Act. The Assessing Officer shall also re-compute the deduction under Section 80HHC by applying the law laid down by the Hon'ble Supreme Court in ***Shital Fibers Limited****'s case*(supra) and extend the consequential benefit to the appellant/assessee. After undertaking the above exercise, the Assessing Officer shall pass appropriate consequential orders in accordance with law after affording a reasonable opportunity of hearing to the appellant/assessee. The aforesaid exercise shall be completed as expeditiously as possible, preferably within a period of three(03) months from the date of receipt of a copy of this judgment. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

P.SAM KOSHY, J

SUDDALA CHALAPATHI RAO, J

19th June, 2026

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