HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Income Tax Appeal No. 19/2008

CNR: RJHC010077432008 | URN: ITA / 16U / 2008

Secure Meters Ltd.

----Appellant

Versus

A.c.i.t.circle-2-Udaipur

----Respondent

For Appellant(s)	:	Mr. Sanjay Jhanwar, Sr. Advocate (Through VC) assisted by Mr. Sanjay Nahar & Mr. Karan Pareek
For Respondent(s)	:	Mr. K.K. Bissa

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

HON'BLE MR. JUSTICE PRAVEER BHATNAGAR

Judgment

1. Date of conclusion of arguments	**15.07.2026**
2. Date on which judgment was reserved	**15.07.2026**
3. Whether the full judgment or only the operative part is pronounced:	**Full Judgment**
4. Date of pronouncement	**05.09.2026**

Per Dr. Pushpendra Singh Bhati, J:

1. The instant Income Tax Appeal has been preferred by the appellant-assessee under Section 260A of the Income-tax Act, 1961 , assailing the order dated 24.08.2007 passed by the learned Income Tax Appellate Tribunal, Jodhpur Bench, Jodhpur in ITA No.457/JU/2006 pertaining to Assessment Year 2003-04. The appellant has claimed the following relief:

> *"(i) The present D.B. Income Tax Appeal may please be allowed and quash/set aside/modify the order of tribunal*

dated 24.08.2007 (Annexure-6) and the substantial questions of law raised herein be answered in favour of the Appellant.

(ii) In the meanwhile, the operation of order of Tribunal dated 24.08.2007 (Annexure-6) be kindly stayed or;

(iii) Any other interim relief, as may be deemed appropriate under the facts and circumstances of the case, be allowed to the appellant."

1.1. The record indicates that vide order dated 13.05.2008, the appeal was admitted on the following substantial questions of law:

"(1) Whether the eligible amount of deduction under section 80IA/80IB of the Act should be reduced for computation of deduction under section 80HHC(3) of the Act?

(2) Whether the 'actual cost' of an asset determined under section 43(1) of the Act which forms part of the Written Down Value within the meaning of section 43(6) of the Act can be modified in subsequent years when the same has already formed part of Written Down Value in preceding years and when there is no specific provision permitting the same?"

2. The relevant facts, in brief, are that the appellant-assessee is engaged in the business of manufacturing solid-state electronic energy meters at its units situated at Pratap Nagar Industrial Area, Udaipur, and at Bated and Barotiwala in District Solan, Himachal Pradesh. The appellant filed its return of income for Assessment Year 2003-04 on 02.12.2003, declaring total income of Rs.8,57,28,280/-.

2.1. The learned Assessing Officer, by order dated 31.01.2006, determined the total income of the appellant at Rs.9,27,23,840/-. Two components of the assessment ultimately became material for the present appeal.

2.2. The first component concerned the deduction claimed under Sections 80-IA/80-IB and Section 80HHC of the Act. The assessment order recorded that the appellant had claimed deductions in relation to its Bated, Barotiwala and Udaipur units under Sections 80-IA/80-IB. The appellant had also claimed deduction under Section 80HHC in respect of export turnover of Rs.85,55,056/-.

2.3. While computing the deduction under Section 80HHC, the appellant excluded the profit and turnover of its Bated unit, in respect of which deduction under Section 80-IB had been claimed at the rate of 100%. The appellant, however, computed the deduction under Section 80HHC in relation to the Barotiwala and Udaipur units without first reducing the amount claimed as deduction under Sections 80-IA/80-IB from the profits of the business.

2.4. The learned Assessing Officer held that, by virtue of Section 80-IA(9), read with Section 80-IB(13), the deduction claimed under Sections 80-IA/80-IB was required to be reduced from the profits of the business before computing deduction under Section 80HHC. The learned Assessing Officer accordingly directed recomputation of the deduction.

2.5. The second component concerned an amount of Rs.7,77,607/- comprising additional Central Sales Tax of Rs.6,58,989/- and interest of Rs.1,18,618/-. The amount was claimed on the basis of a debit note/invoice issued by M/s Business Link Automation India Ltd. The learned Assessing Officer observed that the amount related to purchases made during Financial Year 2001-02 and had arisen because Form C had not been furnished within time. Treating the amount as a prior-period expenditure, the learned Assessing Officer disallowed the same.

2.6. Aggrieved by the assessment order, the appellant preferred Appeal No.394/IT/UDR/2005-06 before the learned Commissioner of Income Tax (Appeals), Udaipur. By order dated 26.06.2006, the learned Commissioner (Appeals) partly allowed the appeal.

2.7. On the issue concerning Section 80HHC, the learned Commissioner (Appeals) accepted the appellant's contention that deduction under Section 80HHC was required to be computed on the income included in the gross total income before making deductions under Chapter VI-A, subject to the aggregate deductions remaining within the statutorily permissible limit.

2.8. In relation to the amount of Rs.7,77,607/-, the learned Commissioner (Appeals) found that the liability came to the knowledge of the appellant and crystallised on 31.03.2003. The disallowance was accordingly deleted.

2.9. The Revenue preferred ITA No.457/JU/2006 before the learned Income Tax Appellate Tribunal, Jodhpur Bench. The Revenue subsequently filed a revised Form No.36 and raised an additional ground questioning the allowance of deduction under Section 80HHC on the gross total income without reducing the amount of deduction under Sections 80-IA/80-IB. The learned Tribunal admitted the additional ground upon finding that it raised a legal question not requiring investigation into fresh facts.

2.10. By the impugned order dated 24.08.2007, the learned Tribunal partly allowed the Revenue's appeal. On the first issue, the learned Tribunal relied upon the decision of the Special Bench of the learned Tribunal in *Assistant Commissioner of Income Tax v. Rogini Garments* and held that the amount of deduction under Sections 80-IA/80-IB was required to be reduced while computing deduction under Section 80HHC.

2.11. Regarding the amount of Rs.7,77,607/-, the Revenue contended before the learned Tribunal that the amount related to the purchase of capital assets and, therefore, formed part of their actual cost under Section 43(1) of the Act. The appellant objected to the Revenue being permitted to support the disallowance on a ground different from that adopted by the learned Assessing Officer.

2.12. The learned Tribunal held that the subject matter continued to be the deductibility of the same amount and that the Revenue had merely advanced an additional legal plea based on material contained in the appellant's own paper book. The learned Tribunal further held that the additional sales tax and interest related to the purchase of assets and, therefore, formed part of their actual cost. The claim for revenue deduction was rejected, while the learned Assessing Officer was directed to allow depreciation on the said amount "as per law".

3. Learned counsel for the appellant submitted that Section 80HHC(3) prescribed a complete statutory formula for computation of the deduction and that the amount allowed under

Sections 80-IA/80-IB could not be subtracted from the profits of the business while applying that formula.

3.1. It was submitted that Section 80-IA(9) operated at the stage of allowance of the deduction and not at the preceding stage of computation. According to the appellant, the deductions under the respective provisions were first required to be computed independently, whereafter the aggregate allowance could be restricted so as to prevent repeated deduction in respect of the same profits.

3.2. Reliance was placed upon the decision rendered by the Hon'ble Supreme Court in *Shital Fibers Ltd. v. Commissioner of Income Tax*, [2025] 476 ITR 309 (SC), to submit that the controversy underlying the first substantial question of law now stood concluded in favour of the appellant.

3.3. In relation to the second question, learned counsel submitted that the assets had been purchased in the preceding previous year and their actual cost had already entered the written-down value of the relevant block. It was urged that the written-down value could not subsequently be increased by adding the amount covered by the later invoice in the absence of a statutory provision authorising such adjustment.

3.4. It was further submitted that the learned Tribunal had treated the additional sales tax of Rs.6,58,989/- and the interest of Rs.1,18,618/- as a composite capital cost without separately examining their nature. The learned Tribunal had also not identified the particular assets, the relevant block, the applicable rate of depreciation or the statutory manner in which the amount was to be incorporated into the written-down value.

3.5. Learned counsel accordingly prayed that both substantial questions of law be answered in favour of the appellant and that the impugned order be set aside to the extent challenged.

4. Per contra, learned counsel for the respondent-Revenue supported the impugned order. It was submitted that Section 80-IA(9), read with Section 80-IB(13), was intended to prevent repeated deduction in respect of the same profits and that the appellant could not obtain deductions under Sections 80-IA/80-IB and Section 80HHC in excess of the profits of the eligible business.

4.1. Regarding the second issue, it was submitted that the additional sales tax arose directly from the purchase of capital assets and, therefore, constituted part of their actual cost. According to the Revenue, the mere fact that the liability was quantified or crystallised subsequently did not convert a capital liability into revenue expenditure.

4.2. It was further submitted that the learned Tribunal was entitled to consider a legal plea arising from the material already available on record and that the appellant had been afforded an opportunity to meet the contention before the learned Tribunal.

5. Heard learned counsel for the parties and perused the appeal, the assessment order, the order passed by the learned Commissioner (Appeals), the impugned order passed by the learned Tribunal, the ordersheets and the material available on record.

5.1. The first question requiring determination is whether, while computing deduction under Section 80HHC(3), the profits of the business were required to be reduced by the amount of deduction allowed under Sections 80-IA/80-IB.

5.2. Section 80HHC(3), as applicable to the assessment year in question, prescribed the manner of computing profits derived from export. Section 80-IA(9), on the other hand, prohibited the allowance of deduction under another provision under heading "C" of Chapter VI-A to the extent of profits and gains already claimed and allowed under Section 80-IA. By virtue of Section 80-IB(13), the relevant restrictions contained in Section 80-IA were also applicable to deduction under Section 80-IB.

5.3. The distinction between the computation of a deduction and its ultimate allowance has now been authoritatively considered by a three-Judge Bench of the Hon'ble Supreme Court in *Shital Fibers Ltd.* (supra). In paragraphs 20 to 22, the Hon'ble Supreme Court held that the restriction under Section 80-IA(9) is not upon the computation of gross total income; rather, it restricts the deduction allowable under another provision under heading "C" to the extent of the deduction already claimed under Section 80-IA. It was further held that Section 80-IA(9) affects the allowability of deductions and not their computation.

5.4. The Hon'ble Supreme Court approved the interpretation adopted by the Hon'ble Bombay High Court in *Associated Capsules (P.) Ltd. v. Deputy Commissioner of Income Tax*, [2011] 332 ITR 42 (Bom.), that the deductions under the respective provisions are to be computed in accordance with their own statutory formulae, but the aggregate deduction actually allowed cannot exceed the profits of the eligible business.

5.5. Applying the aforesaid principle, this Hon'ble Court finds that the learned Tribunal was not justified in holding that the amount of deduction allowed under Sections 80-IA/80-IB was required to be first subtracted from the profits of the business while computing the deduction under Section 80HHC(3).

5.6. The deduction under Section 80HHC was required to be computed independently in accordance with the formula prescribed under Section 80HHC(3) and the definition of "profits of the business" applicable thereto. After such computation, Section 80-IA(9), read with Section 80-IB(13), would operate at the stage of allowance so that the same profits are not subjected to repeated deduction and the aggregate deduction does not exceed the profits of the eligible business.

5.7. The first substantial question of law is, therefore, answered in the negative, in favour of the appellant-assessee and against the Revenue. The finding recorded by the learned Tribunal on this issue is set aside. The learned Assessing Officer shall undertake the consequential computation in accordance with the law declared by the Hon'ble Supreme Court in *Shital Fibers Ltd.* (supra).

6. The second substantial question concerns whether the actual cost of assets, which had already formed part of the written-down value in a preceding year, could be modified in a subsequent year

in the absence of a statutory provision permitting such modification.

6.1. The record indicates that the underlying assets were purchased in a preceding previous year. The additional liability of Rs.7,77,607/- was raised subsequently and comprised two distinct components, namely additional Central Sales Tax of Rs.6,58,989/- and interest of Rs.1,18,618/-.

6.2. The learned Assessing Officer did not examine whether either component formed part of the actual cost of the assets. The disallowance was made only on the ground that the amount related to an earlier period. The learned Commissioner (Appeals), in turn, considered whether the liability had crystallised during the relevant previous year and accepted the appellant’s claim on that basis.

6.3. It was only before the learned Tribunal that the Revenue contended that the amount formed part of the actual cost of capital assets. Although an appellate authority may permit a pure question of law to be raised on the basis of admitted facts, the adjudication of such a plea cannot dispense with the factual findings necessary for applying the statutory provision.

6.4. The learned Tribunal proceeded on the basis that the entire amount related to the purchase of assets and consequently formed part of their actual cost. However, the learned Tribunal did not separately examine the character of the additional sales tax and the interest component. It also did not identify the assets concerned, the block of assets into which they had entered, their opening written-down value or the manner in which an amount crystallising subsequently could be introduced into the computation under Section 43(6).

6.5. The expression “actual cost” under Section 43(1) represents the actual cost of the asset to the assessee, subject to the adjustments expressly contemplated by the Act. Once an asset acquired in a preceding year has entered the relevant block and depreciation has been allowed, the written-down value for a subsequent year is required to be determined in accordance with the statutory mechanism under Section 43(6).

6.6. A subsequent liability cannot be inserted into the opening written-down value merely by describing it as part of the actual cost. The authority must identify the statutory basis for the adjustment and determine, upon examination of the relevant material, whether the subsequent amount truly constitutes an additional acquisition cost of the asset and whether the Act permits its incorporation into the written-down value in the year of crystallisation.

6.7. In the present case, the learned Tribunal neither identified such a statutory mechanism nor recorded the asset-wise and block-wise findings necessary for allowing depreciation. Its general direction that depreciation be allowed “as per law” does not cure the absence of the foundational determination.

6.8. This Hon’ble Court, therefore, finds that the learned Tribunal was not justified in conclusively directing that the entire amount of Rs.7,77,607/- be treated as part of the actual cost and that depreciation be allowed thereon without examining the statutory manner in which the written-down value could be adjusted.

6.9. The second substantial question of law is accordingly answered in the negative, in favour of the appellant-assessee and against the Revenue, to the extent that the actual cost already incorporated into the written-down value of the relevant block could not be modified in a subsequent year without identifying a statutory provision and recording the findings necessary for such adjustment.

6.10. The aforesaid conclusion, however, does not by itself establish that the entire amount of Rs.7,77,607/- was allowable as revenue expenditure. The nature of the additional Central Sales Tax, the interest component, the year in which the liability crystallised and the statutory provision under which either component may be allowable require proper examination.

6.11. The findings recorded by the learned Tribunal as well as the learned Commissioner (Appeals) concerning the amount of Rs.7,77,607/- are therefore set aside, and the issue is restored to the learned Assessing Officer for limited reconsideration. The learned Assessing Officer shall:

(i) examine the invoice/debit note and the material relating to the underlying purchases;

(ii) determine separately the nature of the additional Central Sales Tax of Rs.6,58,989/- and the interest of Rs.1,18,618/-;

(iii) determine the previous year in which the liability to pay each component crystallised;

(iv) consider whether either component is allowable as revenue expenditure under the applicable provisions of the Act;

(v) if any component is claimed to form part of the actual cost, identify the particular assets and block of assets and the specific statutory provision permitting adjustment of their written-down value; and

(vi) pass a reasoned order after affording an adequate opportunity of hearing to the appellant.

7. Consequently, the instant appeal is ***allowed*** in the following terms:

(i) Substantial Question of Law No.1 is answered in the negative, in favour of the appellant-assessee and against the Revenue. The finding recorded by the learned Tribunal requiring the deduction under Sections 80-IA/80-IB to be reduced while computing the deduction under Section 80HHC(3) is set aside. The learned Assessing Officer shall recompute the deduction in accordance with the decision rendered by the Hon'ble Supreme Court in *Shital Fibers Ltd. v. Commissioner of Income Tax*, [2025] 476 ITR 309 (SC), while applying the restriction under Section 80-IA(9), read with Section 80-IB(13), at the stage of actual allowance.

(ii) Insofar as Substantial Question of Law No.2 is concerned, the finding recorded by the learned Tribunal that the entire amount of Rs.7,77,607/- necessarily formed part of the actual cost of the assets, together with the consequential direction to allow depreciation thereon, is set aside.

(iii) The issue concerning the deductibility or other permissible statutory treatment of the amount of Rs.7,77,607/- is remanded to the learned Assessing Officer for fresh determination, confined to the matters specified in paragraph 6.11 of this judgment. The substantial question is answered only to the extent that the actual cost already incorporated into the written-down value of the relevant block cannot be modified in a subsequent year without identifying the statutory provision permitting such adjustment and recording the necessary factual findings.

(iv) The remaining findings recorded in the order passed by the learned Tribunal, which were not made the subject matter of the substantial questions of law on which the appeal was admitted, shall remain undisturbed.

(v) The learned Assessing Officer shall undertake and complete the consequential proceedings expeditiously, after granting an adequate opportunity of hearing to the appellant.

8. All pending applications, if any, also stand disposed of in view of the disposal of the main appeal.

9. The record, if any, be transmitted to the concerned authority forthwith.

(PRAVEER BHATNAGAR),J (DR. PUSHPENDRA SINGH BHATI),J

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