

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "F", NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

AND

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

	I.T.A. No. 2293/DEL/2014	
	A.Y. : 2009-10	
DCIT, CIRCLE 14(1), NEW DELHI ROOM NO. 221, 2 <sup>ND</sup> FLOOR, CR BUILDING, I.P. ESTATE, NEW DELHI	VS.	M/S PICL INDIA PVT. LTD. 7/18-A, SARVAPRIYA VIHAR, NEW DELHI – 11 0 016 (PAN: AACCP4524H)
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

AND

	C.O. NO. 12/DEL/2015 IN I.T.A. No. 2293/DEL/2014	
	A.Y. : 2009-10	
M/S PICL INDIA PVT. LTD., 7/18-A, SARVAPRIYA VIHAR, NEW DELHI – 11 0 016 (PAN: AACCP4524H)	VS.	DCIT, CIRCLE 14(1), NEW DELHI ROOM NO. 221, 2 <sup>ND</sup> FLOOR, CR BUILDING, I.P. ESTATE, NEW DELHI
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Department by : Sh. F.R. Meena, Sr. DR  
Assessee by : Sh. Manpreet Singh Kapoor, CA

**ORDER**

**PER H.S. SIDHU : JM**

The Revenue has filed this Appeal and Assessee has filed the Cross Objection against the impugned Order dated 03.1.2014 passed by the Ld. CIT(A)-XVII, Delhi relevant to assessment year 2009-10.

2. The grounds raised in the Revenue's Appeal read as under:-

*"1. On the facts and circumstances of the case, the Ld. CIT(A) has erred in directing not to reduce Rs. 24,53,532/- from the deduction u/s. 80IC of the Act, on account of freight charges.*

*2. On the facts and circumstances of the case, the Ld. CIT(A) has erred in directing not to make adjustment of Rs. 16,64,268/- on account of interest expense for working out deduction u/s. 80IC of the Act.*

*3. On the facts and circumstances of the case, the Ld. CIT(A) has erred in directing not to make adjustment in respect of interest on loan @12% for working out deduction u/s. 80IC of the Act.*

*4. On the facts and circumstances of the case, the Ld. CIT(A) has erred in modifying the amount of Rs. 9,15,140/- to Rs. 5,00,000/- on account of un-proportioned expenses for working out deduction u/s. 80IC of the Act.*

*5. On the facts and circumstances of the case, the Ld. CIT(A) has erred in not appreciating the observation of the AO in its assessment order while allowing the appeal of the assessee on the issue of deduction.*

*6. The appellant craves to be allowed to add any fresh grounds of appeal and / or delete or amend any of the grounds of appeal.*

3. The ground raised in the Assessee's Cross Objection read as under:-

*"1. That the Ld. CIT(A) erred in confirming the additions made by AO in respect to Rs. 17,46,414/- on account of interest on hundi discounting claimed without giving prejudice to the facts of the case.*

*The above ground is independent and without prejudices to another grounds.*

*The appellant prays for leave to add, alter, modify and withdraw any of the grounds either before or at the time of hearing.*

4 The brief facts of the case are that the return of income was filed on 29.9.2009 at an income of Rs.86,94,200/-. The case was processed and subsequently selected for scrutiny under CASS. Notice u/s. 143(2) dated 26.8.2010 was issued and served upon the assessee. In response to the said notice, the AR of the assessee attended the proceedings and filed the necessary details from time to time. The assessee is engaged in the business of manufacturing of electric motors and mixer grinders. The activity of manufacturing has been carried out from four units, three at Faridabad and one at Baddi in Himachal Pradesh. In respect of profit of Baddi unit, the assessee company has claimed deduction u/s. 80IC at Rs. 1,15,71,789/-. Various details and documents with regard to income shown and expenses and deduction claimed, were called for and filed. Thereafter, the AO vide Order dated 28.12.2011 passed u/s. 143(3) of the I.T. Act,1961 and assessed the income at Rs. 1,76,62,052/-.

5. Against the said order of the AO, assessee appealed before the Ld. CIT(A), who vide impugned his Order dated 03.1.2014 has partly allowed the appeal of the assessee.

6. Aggrieved with the aforesaid order of the Ld. CIT(A), Revenue is in appeal and Assessee is in Cross Objection before the Tribunal

7. Ld. DR relied upon the order of the AO and reiterated the contentions raised in the grounds of appeal and stated that the Ld. CIT(A) has wrongly deleted the addition.

8. On the contrary, Ld. Counsel of the assessee relied upon the order of the Ld. CIT(A) in respect of the grounds raised in the Revenue's Appeal and reiterated the ground raised in the Assessee's Cross Objection.

9. We have heard both the parties and perused the relevant records available with us, especially the orders of the revenue authorities. We find that Ld. CIT(A) has elaborately discussed the issues no. 1 to 4 raised in the Revenue's Appeal vide para no. 11.1, 11.3, 11.4 & 11.5 and also discussed the Issue No. 1 raised in the Assessee's Cross Objection vide para no. 11.2 from pages 23 to 24 of the impugned order which reads as under:-

*11.1 The first adjustment made by the AO has been on account of freight charges. The AO stated that the Baddi Unit was purchasing goods from Faridabad unit and not debiting freight charges. The AO has only made presumptions. The appellant has stated that Baddi Unit has incurred Rs.44,63,799/- on freight and labour in respect of all purchases. Thus, in my view this amount of Rs.24,53,532/- is not to be reduced from the total deduction claimed and not to be added to the total income.*

*11.2. The second adjustment is on account of interest income of Rs.17,46,414/-. As per section 80IC the gross total income should include profit and gains derived by an undertaking or enterprise from any business referred to in the section. The interest income clearly is not from the manufacturing or production business of the appellant. The interest income may be*

*treated as part of business profits. The amount of Rs.17,46,414/- should be added to the total income.*

*11.3. The third adjustment was on account of interest expense of Rs.16,64,268/-. The AO made the adjustment stating no interest has been shown in Baddi. The appellant stated that funds on which interest was paid was utilized for Faridabad unit. I find merit in the contentions of the appellant. The AO has worked out the interest expenses on a presumptive basis which is not correct. The amount of Rs.16,64,268/- is not to be reduced from the profits and not to be added to the total income.*

*11.4. The fourth adjustment is also on account of presumptive interest expense on account of loan. The AO stated that no interest charges were booked in Baddi unit. The appellant stated that interest expenses were shown in Baddi unit. In my view, the appellant's contentions have merit. The interest of 12% has been disclosed in the books of account of the Baddi Unit. The addition therefore to the total income should be deleted. The deduction may be allowed on this amount.*

*11.5. The last addition is on account of un-proportioned expenses. The AO stated that rent, training charges and other administrative charges were not considered while computing the figure of common expenses. The AO therefore added Rs.9,15,140/- to the common expenses. The appellant*

*has agreed for Rs.5,00,970/- but stated that the balance expenses were for the Faridabad Unit only. The contentions of the appellant are accepted. The deduction should be modified accordingly. The ground of appeal is partly allowed.*

9.1 On perusing the above finding of the Id. CIT(A), we find that with regard to ground no. 1 raised by the Revenue's Appeal which is relating to adjustment made by the AO has been on account of freight charges, the AO stated that the Baddi Unit was purchasing goods from Faridabad unit and not debiting freight charges. The AO has only made presumptions. The assessee has stated that Baddi Unit has incurred Rs.44,63,799/- on freight and labour in respect of all purchases. Thus, the Ld. CIT(A) has rightly observed that this amount of Rs.24,53,532/- is not to be reduced from the total deduction claimed and not to be added to the total income, which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) on the issue in dispute and accordingly dismiss the ground no. 1 raised by the Revenue.

9.2. With regard to ground no. 2 raised in the Revenue's Appeal on account of interest expense of Rs.16,64,268/- is concerned, we find that the AO made the adjustment stating no interest has been shown in Baddi. The assessee stated that funds on which interest was paid was utilized for Faridabad unit. Hence, Ld. CIT(A) found the merit in the contentions of the assessee. The AO has worked out the interest expenses on a presumptive basis which is not correct. Thus, the Ld. CIT(A) has rightly observed that the amount of Rs.16,64,268/- is not to be reduced from the profits and not to be added to the total income, which does not need any interference on our part, hence, we uphold

the action of the Ld. CIT(A) on the issue in dispute and accordingly, dismiss the ground no. 2 raised by the Revenue.

9.3 With regard to ground no. 3 raised in the Revenue's Appeal on account of presumptive interest expense on account of loan is concerned, we find that the AO stated that no interest charges were booked in Baddi unit. The assessee stated that interest expenses were shown in Baddi unit. . Thus, the Ld. CIT(A) has rightly found the merit in the assessee's contentions. The interest of 12% has been disclosed in the books of account of the Baddi Unit. The addition therefore was rightly deleted by the Ld. CIT(A) and deduction was allowed on this amount, which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) on the issue in dispute and accordingly, dismiss the ground no. 3 raised by the Revenue.

9.4 With regard to ground no. 4 raised in the Revenue's Appeal on account of un-proportioned expenses. The AO stated that rent, training charges and other administrative charges were not considered while computing the figure of common expenses. The AO therefore added Rs.9,15,140/- to the common expenses. The assessee has agreed for Rs.5,00,970/- but stated that the balance expenses were for the Faridabad Unit only. Hence, the Ld. CIT(A) has rightly accepted the contentions of the assessee and rightly directed to modify the same accordingly and partly allowed, which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) on the issue in dispute and accordingly, dismiss the ground no. 4 raised by the Revenue.

9.5 With regard to ground no. 1 raised in Assessee's Cross Objection is on account of interest income of Rs.17,46,414/-. As per section 80IC

the gross total income should include profit and gains derived by an undertaking or enterprise from any business referred to in the section. The interest income clearly is not from the manufacturing or production business of the assessee. Hence, the Ld. CIT(A) has rightly observed that the interest income may be treated as part of business profits and the amount of Rs.17,46,414/- was rightly directed to be added to the total income of the assessee, which does not need any interference on our part, hence, we uphold the action of the Ld. CIT(A) on the issue in dispute and accordingly, dismiss the ground no. 1 raised by the Assessee in its Cross Objection.

10. In the result, the Appeal filed by the Revenue and Cross Objection filed by the Assessee stand dismissed.

Order pronounced in the Open Court on 17/04/2017.

**Sd/-**  
**[PRASHANT MAHARISHI]**  
**ACCOUNTANT MEMBER**

**SD/-**  
**[H.S. SIDHU]**  
**JUDICIAL MEMBER**

*Date 17/04/2017*

**“SRBHATNAGAR”**  
+

**Copy forwarded to: -**

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar,  
ITAT, Delhi Benches