IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.2.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Tax Case (Appeal) No.407 of 2013

Commissioner of Income Tax
Chennai ... Appellant

Vs.

Smt.S.Mahalakshmi
PAN: AFZPM 1125 Q ... Respondent

Tax Case (Appeal) filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, 'B' Bench, Chennai, dated 7.12.2012 made in ITA No.1523/Mds/2010.

For Appellant : Mr.M.Swaminathan
Senior Standing Counsel assisted by
Ms.V.Pushpa,
Junior Standing Counsel
For Respondent : Mr.R.Vasumithran for
Mr.N.Inbarajan

JUDGMENT
(Delivered by DR.VINEET KOTHARI,J)

Heard the learned counsel for both sides.

2. The Revenue has filed the present Appeal aggrieved by the order passed by the Income Tax Appellate Tribunal on 7.12.2012 holding in favour of the Assessee that the process of converting raw

Urad into Urad Dhal was a manufacturing activity and therefore, the Assessee is entitled to deduction under Section 80IA of the Act.

3. The Appeal was admitted by a co-ordinate Bench of this court by its order dated 22.8.2013, raising the following purported substantial question of law:-

> "*Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that the end product viz., dhall is different from the input product viz., gram and the assessee has engaged in manufacturing activity and eligible for deduction under Section 80IB?*"

4. The Tribunal has relied upon the view of the other Benches of the Tribunal and the Judgments of the Hon'ble Supreme Court as well. The relevant portion of the order passed by the Tribunal is quoted below for ready reference:-

> *"17. Further, the Ahmedabad Bench of the Tribunal in the case of Mukesh Trading Co. vs ITO (supra) also held that* ***the process of converting raw urad into urad dal was manufacturing activity*** *and assessee was entitled to deduction u/s 80IA of the Act. Similarly, the Indore Bench of the Tribunal*

in the case of ACIT, Bhopal vs. M/s.Shree Janki Overseas Pvt. Ltd., (supra), after taking into consideration the decision of the Hon'ble Supreme Court in the case of ITO vs. Arihant Tiles & Marbles Pvt. Ltd., 320 ITR 79(SC), CIT vs. Oracle Software India Ltd., 320 ITR 546 (SC) and various other decisions reported in that order, came to the conclusion that manufacture of dal out of gram, moong, urad, masur, etc. was a commercially new and distinct end product and therefore, amounts to 'manufacture' and the assessee was entitled to deduction u/s. 80IB(3)(ii) of the Act.

18. In view of the above, and respectfully following the above quoted decisions of the Tribunal, we do not find any good and justifiable reason to interfere with the order of the CIT(A). It is confirmed and the grounds of appeal of the Revenue are dismissed.

19. In the result, the Appeal of the Revenue is dismissed."

5. Now, both the learned counsel submitted that the recently, this court has also taken a view in *CIT v. Muthuramalingam Modern Rice Mill ((2019) 105 taxmann.com 39 (Madras))* that the process of converting Paddy into Rice is also a manufacturing activity and therefore, the Assessee was entitled to deduction under Section 80-IA/80-B of the Act. The relevant portion of the said Judgment of this Court is quoted below for ready reference:-

> *"14. On the consideration of case laws relied upon by both the sides and the provisions of the Act itself, we are of the considered opinion that the benefit of Deduction under Section 80IA/ and 80IB of the Act was intended to promote the industrial activity in the field of infrastructural development and other sectors and those engaged, in the process of manufacture or production of articles or things not included in the Eleventh schedule of the Act, were held entitled to avail such deduction.*
>
> 15. The words "manufacture" or "production" employed jointly in the said provisions do not permit us to take a narrow or pedantic approach in the matter. On the other hand, a pragmatic and

purposive interpretation deserves to be put to these words of wider connotations.

16. These words "Manufacture or production" cover within their ambit any activity by which, a different commercial article, having a different commercial value, is brought into existence by the process of 'Manufacture or Production'. When the Paddy in the husk is converted into Rice by the process of dehusking, by manual or mechanical process it cannot be said, by any stretch of imagination that there is no transformation of article. A husked Paddy is not a de-husked Rice, and not only the form undergoes a change but also the value addition happens by such process. A different commercial article undoubtedly comes into being. The industrial activity by employing men and machine in the industrial undertaking of the Assessee is not even doubted by the Revenue. It is also not in dispute that Rice and Paddy are two different things, but the only contention which the Revenue seeks to raise before us is that the said process of dehusking

is not covered by the terms "Manufacture". We cannot accept this submission for the simple reason that while the investment in the Industry is made by the Assessee and carrying of industrial activity is not disputed and the article in question viz., husked Paddy and Rice are two different articles having different value, what can be the reason to deny them the benefit under Section 80 IA and 80 IB of the Act. We see no reason, much less any justifiable reason, for denial of the said benefit to the Assesee before us.

17. We find that the definition of the word “Manufacture” though was not available in the Assessment Years before us upto 2003-2004, but the said definition embodies the concept of transformation of object or article into different commercial article as was discussed in several judicial pronouncements from time to time. If a different commercial article comes into existence as understood by the persons who deal with those things, a different approach need not be taken by the

Courts of law to hold otherwise. The dehusked Paddy and Rice obviously are not sold on the same rate nor can they be consumed for same purpose in the same form. Therefore, the process of dehusking of Paddy into Rice with the aid of labour and machinery is definitely an industry activity undertaken by the Assessee. The cases relied on by the learned counsel for the Revenue are not only in different contexts but finally resulted in giving benefit to the Assessee, depending upon the context of the concerned enactment. Even in case before the CESTAT, in the case of ***Dunar Foods Limited*** (supra) it was held that Rice and the husk remain in the natural form and both of them continue to be covered by the term "agricultural product" as was held by the Hon'ble Supreme Court in the case of ***M/s.Cynamid India Ltd.,*** (supra). In the said case, the Hon'ble Supreme Court held that the conversion of Paddy into Rice is not a industrial operation and the Rice and husk remain in their natural form as a result of dehusking and are covered by the term 'agricultural product' and therefore, the Assessee was entitled to the benefit under Section 35 of the Income Tax Act, which was designed for development of agricultural research specified thereunder. Similarly, the Division Bench of Karnataka High Court, in the case of ***B.Raghurama Chetty*** case (supra) held that the said process of dehusking and milling of Paddy did not bring about new and different article and therefore, Paddy could not be said to have been consumed in the process of manufacture of Rice and hence, it will not amount to violation of the provision of Section 6 (1) of the Karnataka Sales Tax Act and the Assessee would not be liable to pay Additional Sale Tax.

18. Therefore, we are of the opinion that it would depend upon the context in which the words "Manufacture or production" have to be interpreted by the Court of law. In the present case, the context is whether the industrial activity in the form of dehusking of Paddy into Rice amounts to Industrial undertaking engaged in the ' Manufacture or

production' of Rice or not.

19. In the said context, in view of the aforesaid cases, we find no reason to hold that the activity of dehusking of Paddy into Rice will not amount to "manufacture or production". We do not find justification to give a narrower meaning to these terms, which, by themselves independently or jointly as employed in the said provisions of Section 80IA are wide enough to cover the industrial activity undergone by the Assessee."

6. Having heard the learned counsel for the parties and in view of the settled position of law, we are of the view that the learned Tribunal was justified in holding that the process of converting raw Urad into Urad Dhal is a manufacturing activity undertaken by the Assessee and therefore, the Assessee was entitled to deduction under Section 80IA of the Act.

7. We do not find any merit in the Appeal and the Appeal filed by the Revenue deserves to be dismissed. Accordingly, it is dismissed and the question of law is answered in favour of the Assessee and against the Revenue. No costs.

(V.K.,J.) (R.S.K.,J.)
7.2.2020

Index : Yes/No
Internet : Yes/No
ssk.

To

1. Commissioner of Income Tax
   Chennai

2. Income Tax Appellate Tribunal,
   'B' Bench, Chennai,

3. The Income Tax Officer,
   Ward III(1), Tiruchirapalli.

DR.VINEET KOTHARI, J.
and
R.SURESH KUMAR, J

ssk.

TC(A) No.407 of 2013

7.2.2020