

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "C" NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A No.5991/Del/2017  
निर्धारणवर्ष/Assessment Year:2013-14**

<b>M/s High Valley Industries Corporation, 414, Dmall, Netaji Subhash Place, Pitampura, Delhi.</b>	<b>बनाम Vs.</b>	<b>DCIT Central Circle 7 Delhi.</b>
<b>PAN No. AADFH8325A</b>		
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

<b>निर्धारितकीओरसे /Assessee by</b>	<b>Sh. Ved Jain, Adv. Sh. Ashish Goel, CA</b>
<b>राजस्वकीओरसे /Revenue by</b>	<b>Ms. Parul Singh, Sr. DR</b>

<b>सुनवाईकीतारीख/ Date of hearing:</b>	<b>17.11.2020</b>
<b>उद्घोषणाकीतारीख/Pronouncement on</b>	<b>18.11.2020</b>

**आदेश /O R D E R**

**PER BHAVNESH SAINI, J.M.**

This appeal by assessee has been directed against the order of Ld. CIT(Appeals), Shimla dated 28/10/2016 for A.Y. 2013-14, challenging the order of the Ld. CIT(A) in confirming the action of the AO in allowing deduction u/s 80-IC to Rs. 61,09,281/- as against Rs. 2,44,37,125/-.

2. Briefly the facts of the case are that assessee firm filed its return of income declaring Nil income after claiming deduction u/s 80-IC amounting to Rs. 2,44,37,125/-. The assessee firm is engaged in the business of manufacturing of self adhesive tapes and trading of polymers/resins. The assessee started its manufacturing activity/operation on 16<sup>th</sup> August, 2005 and initial assessment year for claim of deduction u/s 80-IC of the Act was A.Y. 2006-07. The assessee

had already claimed deduction u/s 80-IC to the extent of 100% of the eligible profit for 5 years period starting from AY 2006-07 to AY 2010-11. It was noticed that the assessee firm had again claim 100% deduction against eligible profits in the assessment year under appeal which is the 8<sup>th</sup> year of production of the firm by claiming to have carried out substantial expansion in AY 2011-12. The AO held that assessee is eligible for deduction u/s 80-IC only @ 25% as against the claim of 100% made by the assessee. The AO followed the order of ITAT Chandigarh Bench in the case of M/s Hycron Electronics & Others dated 27<sup>th</sup> May, 2015. The Ld. CIT(A) also following the above order of the ITAT Chandigarh Bench dismissed the appeal of assessee.

3. Ld. Counsel for assessee submitted that now the issue is decided by the Hon'ble Supreme High Court in the case of Pr. CIT Vs. Aarham Softronics reported in 412 ITR 623 (SC) in which it was held as under:

*Held accordingly, (i) that an undertaking or an enterprise which had set up a new unit between January 7, 2003 and April 1, 2012 in the State of Himachal Pradesh of the nature mentioned in section 80-IC(2)(ii) would be entitled to deduction at the rate of 100% of the profits and gains for the five assessment years commencing with the "initial assessment year". For the next five years, the admissible deduction would be 25% (or 30% where the assessee is a company) of the profits and gains.*

*(ii) That however, in a case where substantial expansion as defined in section 80-IC(8)(ix) is carried out by such an undertaking or enterprise, within the period of ten years, the assessment year corresponding to the previous year in which the substantial expansion is undertaken would become the "initial assessment year", and from that assessment year the assessee shall be entitled to 100% deductions of the profits and gains.*

*(iii) That such deduction, however, would be for a total period of ten years, as provided in section 80-IC(6). For example, if the expansion is carried out immediately, on the completion of the first five years, the assessee would be entitled to 100% deduction again for the next five years. On the other hand, if substantial expansion is undertaken, say, in the eighth year by an assessee such an assessee would be*

*entitled to 100% deduction for the first five years, deduction at 25% of the profits and gains for the next two years and at 100% again from eighth year as this year becomes the “initial assessment year” once again. However, this 100% deduction would be for the remaining three years, i.e., the eighth, ninth and tenth assessment years.”*

4. Ld. DR also stated that now issue is decided in favour of the assessee. In view of the above, since the issue is now decided in favour of the assessee. Therefore, assessee would be entitled for deduction u/s 80-IC for 100%. We, accordingly, set aside the orders of the authorities below and direct the AO to grant deduction of the assessee u/s 80-IC at 100%.

5. In the result, the appeal of assessee is allowed.

Order pronounced in the open court.

Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Dated: 18<sup>th</sup> November, 2020

\*Kavita Arora, Sr. P.S.

Copy of order sent to- Assessee/AO/Pr. CIT/ CIT (A)/ ITAT (DR)/Guard file of ITAT.

By order

Assistant Registrar, ITAT: Delhi Benches-Delhi