

**IN THE INCOME TAX APPELLATE TRIBUNAL
CHANDIGARH BENCHES, CHANDIGARH**

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND Ms. ANNAPURNA GUPTA, ACOCUNTANT MEMBER

ITA No. 987/CHD/2016
Assessment year: 2012-13

M/s Shree Dhanwantri Herbals
Baddi, Distt. Solan H.P.

Vs. The DCIT, Circle,
Parwanoo, H.P.

(Appellant)

(Respondent)

Appellant By : Sh. Puneet Gupta
Respondent By : Sh. Manjit Singh

Date of hearing : 08.12.2016
Date of Pronouncement : 16.12.2016

ORDER

PER ANNAPURNA GUPTA, AM

The appeal filed by the assessee is directed against the order of
Ld. CIT(A), Shimla dated 29.7.2016 for assessment year 2012-13.

2. The assessee has raised the following grounds:-

1. That Ld. CIT(A) is wrong in disallowing the benefit of substantial expansion u/s 80IC(2) and confirming the deduction u/s 80IC only to the extent of 25% as against 100% by holding that benefit of substantial expansion is allowable only to the undertaking which were existing as on 07.01.2003.

2. *In view of above & such other grounds, which may be taken at the time of hearing, the appeal may please be allowed and justice rendered.*

3. Brief facts relating to the case are that assessee firm derives income from manufacturing and sale of herbal medicines and has a unit at Kishanpura, Baddi which was eligible for deduction u/s 80IC of the Act. The assessee had commenced its operation in the said unit on 25.07.2005 and the initial assessment year for claiming of deduction u/s 80IC of the Act was assessment year 2006-07. The assessee had already claimed deduction u/s 80IC of the Act to the extent of 100% of the eligible profits for 5 years period from assessment years 2006-07 to AY 2010-11. During the impugned assessment year, the assessee firm had again claimed 100% deduction on its eligible profits on account of substantial expansion undertaken by it in financial year 2010-11 pertaining to assessment year 2011-12. The Assessing officer held that since the assessee had claimed 100% deduction u/s 80IC for the first five years, it was entitled to claim deduction u/s 80IC of the Act only @ 25% from the sixth year onwards. After detailed discussion in the assessment order, the Assessing officer restricted the claim of deduction u/s 80IC @ 25% as against 100% claimed by the assessee.

4. The matter was carried in appeal before the Ld. CIT(A) who, vide his order dated 29.7.2016, upheld the order of the Assessing officer following the decision of ITAT Chandigarh Bench of the

Tribunal in the case of M/s Hycron Electronics Vs. ITO in ITA No. 798/Chd/2012 and other related cases, dated 27.5.2015.

5. Aggrieved by the same, the assessee has come up in appeal before us. During the course of arguments, it was fairly conceded by the Ld. Counsel for the assessee that issue is covered against the assessee by the decision of the Chandigarh Bench of the ITAT in the case of M/s Hycron Electronics Vs. ITO (supra).

6. We find no infirmity in the order of the Ld. CIT(A) in restricting the claim of deduction u/s 80IC of the Act to 25% of the eligible profits. Undoubtedly the eligible unit of the assessee was set up and commenced production on 25.07.2005, i.e. after section 80IC was brought on the statute vide Finance Act, 2003 w.e.f. 1.4.2004, and had already claimed AY 2006-07 as its initial assessment year, thus claiming 100% deduction of its profits for the first five years beginning therefrom. It is on account of substantial expansion undertaken by it in AY 2011-12 that it has treated the same as its initial assessment year and claimed deduction @ 100% of its profits in the impugned year. We find that the ITAT, Chandigarh Bench in the case of M/s Hycron Electronics Vs. ITO (supra), has dealt with an identical issue and after elaborately discussing the provisions of section 80 IC, held that the benefit of deduction u/s 80IC of the Act @ 100% was available to new units, only on the setting up of the unit and not on account of substantial expansion undertaken by it. It was further held that there can be only one initial assessment

year for claiming 100% deduction of profits therefrom ,for the purpose of section 80 IC of the Act and that in any case the benefit of 100% deduction, for units set up in specified areas in the state of Himachal Pradesh, cannot be claimed beyond the period of 5 years. In view of the same, we uphold the order of the Ld. CIT(A) restricting the deduction claimed u/s 80IC of the Act, to the extent of 25% of the eligible profits.

The grounds of appeal raised by the assessee are dismissed.

7. In the result, the appeal of the assessee is dismissed.

Order Pronounced in the Open Court.

Sd/-

(BHAVNESH SAINI)
JUDICIAL MEMBER

Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Dated : 16th December, 2016
Rkk

Copy to:

1. *The Appellant*
2. *The Respondent*
3. *The CIT*
4. *The CIT(A)*
5. *The DR*