

No denial of sec. 80-IC relief due to non-maintenance of separate books for manufacturing carried on job work basis

Summary – The Delhi ITAT in a recent case of Zeon Lifesciences Ltd., (the Assessee) held that An industrial unit manufacturing articles on job work basis is entitled to claim deduction under section 80-IC even though it has not maintained separate books for manufacturing activity carried out on its own and on job work basis

Facts

- The assessee had industrial undertakings engaged in manufacturing health & nutritional foods, protein powders and food supplements etc. These are manufactured by the assessee-company either as its own products and/or for other companies on job work/contract manufacturing basis.
- The assessee claimed deduction under section 80-IC in respect of aforesaid activities carried out on its own behalf as well as on job basis.
- The Assessing Officer took a view that job work was not a manufacturing activity. He further held that since separate books have not been maintained by the assessee-company for the manufacturing activities carried out for self and on job work/contract manufacturing, no deduction under section 80-IC was available to assessee.
- The Commissioner (Appeals) held that assessee job work charges have to be treated as manufacturing activity and it is not envisaged under section 80-IC to maintain separate books of account for manufacturing on his own account and for job work.
- On revenue's appeal:

Held

- It was found that the process of manufacturing for own self and job work is same, *i.e.*, dry blending of various raw materials under controlled conditions. Both types of manufacturing activities, *i.e.*, for own self or for any third party would fall under the definition of 'manufacture'. The job work charge had a direct nexus with the manufacturing activity of the assessee since the assessee did the job work by utilizing its machinery and labourers. The manufacturing process resulted in transformation of raw material into a new and distinct product. It was also the submission of the assessee's counsel that when the goods belonging to third party were manufactured by the assessee the same is also covered under Excise Rules as manufacturing activity and section 80-IC does not specify that manufacturing has to be of own goods/product only and accordingly, the *Explanation* to section 80-IA(13) is not applicable to section 80-IC.
- It was also found considerable cogency in the assessee's contention that the production activity was not suspended in the current year and unit was kept ready for production stage at all times; and

production did not take place as there was no work order from CCIPL; and even fixed minimum charges derived are income from and have direct nexus with the business of the undertaking. It is a well settled that for the purpose of claiming deduction under section 80-IC, the income has to be derived from the undertaking. Therefore, if there is nexus between the receipt of income and undertaking, it has to be treated as income derived from the undertaking. The immediate source of job charges received was from the undertaking itself. The job work charges have to be treated as income derived from the undertaking itself. The job work charges received by the assessee had a direct nexus with the manufacturing activity of the assessee since the assessee did the job work by utilizing its own machinery and labourers. Where the goods belonging to others were manufactured by the assessee and it derived profit by way of job charges, the assessee is entitled to deduction under section 80-IC as the same tantamount to manufacture in terms of Excise rules, Income-tax Act and all other applicable statutes. An industrial unit manufacturing or producing articles or things on job work basis cannot be denied deduction under section 80-IC merely on the ground that it is deriving profit by carrying out job work. Job work also tantamount to manufacture if otherwise the conditions required to classify the activity carried out by the undertaking result in manufacture of an article or thing.

- There is no requirement under law for maintaining separate books of account for manufacturing and non-manufacturing activities of an undertaking. Where assessee-company carries on both manufacturing and non-manufacturing activity in its undertaking the Assessing Officer ought to have allowed deduction under section 80-IC on some logical, rational and scientific basis as all the applicable conditions for allowability of deduction under section 80-IC have been met by the said unit of the assessee-company.
- In view of the above, it was found that Commissioner (Appeals) has rightly held that the assessee job work charges have to be treated as manufacturing activity and it is not envisaged under section 80-IC to maintain separate books of account for manufacturing on his own account and for job work. Thus, it appears that there is no denial of deduction under section 80-IC in case of manufacturing activities in the nature of job works, work contract etc. In the background of the aforesaid detailed discussions and precedents relied upon by the Commissioner (Appeals) in his order as well as by the assessee, as aforesaid, there was no interference called for in the well reasoned order passed by the Commissioner (Appeals) and uphold the same by rejecting the revenue's appeal.