

IT: If rent or interest is a receipt chargeable as profits and gains of business and chargeable to tax under section 28, and if any quantum of rent or interest of assessee is allowable as an expense in accordance with sections 30 to 44D and is not to be included in profit of business of assessee as computed under head 'Profits and gains of business or profession', ninety per cent of such quantum of receipt of rent or interest will not be deducted under clause (a) of Explanation (baa) to section 80HHC; SLP dismissed

IT: An assessee is entitled to deduction under section 80-IA in respect of interest on deposits and that deduction under section 80-IA is allowable in respect of compensation received on machinery breakdown and miscellaneous income being incidental to profits and gains derived from eligible business under section 80-IA; SLP dismissed

IT: Expenses provision written back will not form a part of income since it was written off deposit which was kept in separate account and is not an income eligible for section 80-IA deduction; SLP dismissed

IT: Interest earned on short-term deposits of money kept apart for purpose of business has to be treated as income earned on business and cannot be treated as income from other sources and is eligible for section 80-IA deduction; SLP dismissed

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[2018] 95 taxmann.com 314 (SC)

SUPREME COURT OF INDIA

Commissioner of Income-tax

v.

Chambal Fertilizers & Chemicals Ltd.*

A.K.SIKRI AND ASHOK BHUSHAN, JJ.

SPECIAL LEAVE PETITION (CIVIL) DIARY NO.(S) 13731/2018†

MAY 1, 2018

I. Section 80HHC of the Income-tax Act, 1961 - Deduction - Exporters (General) - High Court held that if rent or interest is a receipt chargeable as profits and gains of business and chargeable to tax under section 28, and quantum of rent or interest of assessee is allowable as an expense in accordance with sections 30 to 44D and is not to be included in profit of business of assessee, ninety per cent of such quantum of receipt of rent or interest will not be deducted under clause (1) of Explanation (baa) to section 80HHC and ninety per cent of net gross rent or gross interest but only net interest or net rent, which has been included in profits of business of assessee as computed under head 'Profits and gains of business or profession', is to be deducted under clause (1) of Explanation (baa) to section 80HHC for determining profits of business - Whether SLP against said order was to be dismissed - Held, yes [In favour of assessee]

II. Section 80-IA of the Income-tax Act, 1961 - Deductions - Profits and gains from infrastructure undertakings (Computation of deduction) - High Court held that an assessee is entitled to deduction under section 80-IA in respect of interest on deposits

and that deduction under section 80-IA is allowable in respect of compensation received on machinery breakdown and miscellaneous income being incidental to profits and gains derived from eligible business under section 80-IA - Whether SLP against said order was to be dismissed - Held, yes [In favour of assessee]

III. Section 80-IA of the Income-tax Act, 1961 - Deduction - Profits and gains from Infrastructure Undertakings (Computation of deduction) High Court held that expenses provisions written back will not form a part of income since it was written off deposit which was kept in separate account and is not an income eligible for section 80-IA deduction - Whether SLP against said decision was to be dismissed - Held, yes [Para 4] [In favour of revenue]

IV. Section 80-IA of the Income-tax Act, 1961 - Deductions - Profits and gains from industrial undertakings (Computation of deduction) - High Court held that interest earned on short-term deposits of money kept apart for purpose of business has to be treated as income earned on business and cannot be treated as income from other sources and eligible for section 80-IA deduction - Whether SLP against said decision was to be dismissed - Held, yes [In favour of assessee]

CASE REVIEW

Chambal Fertilizers and Chemicals Ltd. v. CIT [2018] 95 taxmann.com 313 (Raj.) [SLP dismissed].

Vikramjit Banerjee, ASG, H. Raghavendra Rao, Shekhar Vyas, Ms. Shruti Agarwal, Advs. and Mrs. Anil Katiyar, AOR for the Petitioner.

ORDER

1. Heard.

2. The special leave petition is dismissed both on the ground of delay as well as on merits.

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*Partly in favour of assessee.

†Arising out of *Chambal Fertilizers and Chemicals Ltd. v. CIT* [2018] 95 taxmann.com 313 (Raj.).