



## **Global Business Tax Alert**

### Sharp Insights

**The Supreme Court, in the case of CIT v. Best Corporation Ltd. (76 taxmann.com 295), held that initial assessment year under section 80-IA(5) would only mean year of claim of deduction under section 80-IA and not year of commencement of eligible business; the taxpayer has an option to choose first/initial assessment year of claim for deduction.**

**Issue no:** GBTA/4/2017

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## Background and ruling

- The taxpayer claimed deduction under section 80-IA of the Income-tax Act (ITA) for the assessment year 2011-12.
- Following the decision of the Madras High Court in case of Velayudhaswamy Spinning Mills (P.) Ltd. v. ACIT (340 ITR 477), which was pending appeal before the Supreme Court, the Income-tax Appellate Tribunal ('Tribunal') held that the taxpayer was entitled to such deduction without setting off losses/ unabsorbed depreciation pertaining to windmill, which were set off in earlier year against other business income.
- The Tribunal also held that initial assessment year in section 80-IA(5) would only mean year of claim of deduction under section 80-IA and not year of commencement of eligible business. The Tribunal further held that the taxpayer had option to choose first/initial assessment year of claim for deduction under section 80-IA.
- On appeal, the Hon'ble Madras High Court (76 taxmann.com 286) upheld the Tribunal's order as -
  - It (Madras High Court) consistently followed the decision in the case of Velayudhaswamy Spinning Mills (P.) Ltd. (supra)
  - Circular No. 1 dated February 15, 2016 issued by the Central Board of Direct Taxes (CBDT) which in turn relied on the decision of Madras High Court to clarify that an assessee has the option to choose the initial/first year from which it may desire the claim of deduction under that Section.
- Special Leave Petition (SLP) filed by the Revenue is dismissed by the Hon'ble Supreme Court.

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