

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE S.V.BHATTI

&

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

FRIDAY, THE 30TH DAY OF JULY 2021 / 8TH SRAVANA, 1943

ITA NO. 111 OF 2015

AGAINST THE ORDER IN I T(TP)A NO. 4/2013 OF I.T.A.TRIBUNAL,COCHIN

BENCH, ERNAKULAM

APPELLANT/S:

THE COMMISSIONER OF INCOME TAX, COCHIN

BY ADVS.

SRI.P.K.R.MENON,SR.COUNSEL, GOI(TAXES)

SRI.JOSE JOSEPH, SC, FOR INCOME TAX

CHRISTOPHER ABRAHAM, INCOME TAX DEPARTMENT

RESPONDENT/S:

M/S.APOLLO TYRES LTD.,

6TH FLOOR, CHERUPUZHAPAM BUILDING, SHANMUGHAM ROAD,

KOCHI-682031.

THIS INCOME TAX APPEAL HAVING COME UP FOR HEARING ON 30.07.2021,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

S.V.Bhatti, J.

Heard learned Standing Counsel Mr. Christopher Abraham and learned Senior Counsel Mr. Joseph Markos for parties.

2. The Commissioner of Income Tax/Revenue is the appellant. M/s.Apollo Tyres Ltd., Kochi/Assessee is the respondent. The subject appeal is at the instance of Revenue from the order of Income Tax Appellate Tribunal (for short 'the Tribunal'), Cochin Bench in IT(TP)A No.04/Coch/2013 dated 05.09.2014. The appeal deals with the Assessment Year 2008-09. The following substantial questions of law are stated for consideration in this appeal:

“1. Whether, on the facts and in the circumstances of the case the Tribunal is right in law and fact in holding that DG Power Generation Units 1 and II constituted an "undertaking" under Sec. 80 IA of the Income tax Act?

2. Whether DG Power Generation units 1 and II are entitled to the benefit of Sec. 80 1A of the Income tax Act?

3. The questions raised in this appeal are similar to the questions raised by the Revenue in ITA No. 69/2011 and ITA No.70/2011 for the Assessment Year 2002-03. On 27.02.2019 the appeals filed by the Revenue were dismissed. Our attention has been drawn to the reasoning and conclusion recorded by this Court on similar questions framed in ITA Nos.69 and 70 of 2011.

By following the reasoning and conclusion recorded in ITA Nos.69 and 70/2011, the substantial questions of law raised are answered in favour of the assessee and against the Revenue. The appeal is dismissed. No order as to costs.

sd/-

S.V.BHATTI

JUDGE

sd/-

BECHU KURIAN THOMAS

JUDGE

APPENDIX OF ITA 111/2015

PETITIONER ANNEXURE

ANNEXURE A

**COPY OF THE ASSESSMENT ORDER U/S.143(3) DATED
17/12/2012 PASSED BY THE ASSESSING OFFICER FOR AY
2008-09.**

ANNEXURE B

**COPY OF THE ITAT'S ORDER IT(TP)A 04/COCH/2013
DATED 05/09/2017 FOR ASSESSMENT YEAR 2008-09.**