

## Full deduction under section 80-IA, 80-IB or 80HHC can be claimed as each provision is an independent provision

**Summary – The High Court of Himachal Pradesh in a recent case of Emmbros Metal (P.) Ltd., (the Assessee) held that deduction under section 80-IA or 80-IB and deduction under section 80HHC are independent of each other and, therefore, full deduction under each section can be claimed.**

### Facts

- The basic issue involved in these cases is whether an assessee is entitled to full deduction under sections 80-IB and 80HHC or the deduction has to be proportionately reduced.
- According to the revenue, the benefit under section 80HHC or any other sections has to be computed on the profits and gains of business reduced by amount of deduction allowed under section 80-IA or 80-IB, whereas the claim of the assessee was that these are two independent sections and, therefore, full benefit of both should be given.

### Held

- The High Court of Himachal Pradesh in a recent judgment in *CIT v. Him Teknoforge Ltd.* [2012] 210 Taxman 201/Mag./26 taxmann.com 129 (HP) has clearly held that calculation of deduction is different from giving the benefit of the deduction. While calculating the deduction the provisions of the deducting sections have to be followed. There is nothing in section 80-IA(9) which lays down that the assessee would not be entitled to claim deduction under section 80HHC on that portion of the profits of the unit of which benefit has been taken under sections 80-IA or 80-IB. The object of section 80-IA(9) is not to curtail the deduction but to avoid double benefits. The total benefits cannot be higher than the gross income and cannot exceed the profits of the priority undertaking. The assessee would be entitled to the benefit of section 80-IA or 80-IB separately and to that of section 80HHC independently and while computing the deduction under section 80HHC the profits or deductions which have been granted under sections 80-IA or 80-IB cannot be taken into consideration.
- Under the provisions of Chapter VIA of the Act an assessee is entitled to various deductions from profits and gains if the assessee fulfils the requirements of the sections. The total deduction, however, cannot exceed the gross total profits of the assessee. It is, thus, apparent that section 80-IA(9) has been framed in a manner to avoid the assessee claiming deduction more than the profits of the unit. The entitlement or quantification of deduction is different than the actual claim of deduction. Therefore, the contention of the revenue that the profits and gains, permitted to be deducted under section 80-IA or 80-IB, should be deducted out of the profits of the business and

thereafter the profits and gains of the export business are to be reckoned for the purpose of calculating the benefit under section 80HHC is contrary to the statutory provisions and the letter and spirit of the Act. The deductions are independent of each other and, therefore, full deduction under each section can be claimed though the overall benefit has to be restricted to the total profits and gains of such eligible business.