

## Tax dept. couldn't ignore ruling of Jurisdictional HC just because it had filed SLP on same issue

**Summary – The Chennai ITAT in a recent case of S.V.P.B. Spinners (P.) Ltd., (the Assessee) held that Mere filing of SLP against High Court's judgment was not a valid ground for not following High Court's judgment**

### Facts

- The assessee-company was engaged in the business of manufacture of cotton yarn.
- The Assessing Officer observed that the assessee had claimed the deduction under section 80-IA relying upon the decision of the High Court in the case of *Velayudhaswamy Spg. Mills (P.) Ltd. v. Asstt. CIT [2012] 21 taxmann.com 95 (Mad.)*; since the revenue was in appeal against said decision and the matter was pending before the Apex Court, he made disallowance under section 80-IA.
- The Commissioner (Appeals) decided the issue in favour of the assessee by following the decision of the Jurisdictional High Court in the case of *Velayudhswamy Spg. Mills (P.) Ltd. (supra)*.
- On appeal:

### Held

- It appears that the Assessing Officer was of the view that since the revenue was on appeal against the decision of the Madras High Court in the case of *Velayudhswamy Spinning Mills (P.) Ltd. (supra)* before the Apex Court, he need not follow the decision. He did not realize that mere filing of the SLP before the Apex Court is not a valid ground for not following the judgment of the Madras High Court. Further, it is not the case of the revenue that the judgment of the Madras High Court in the case of *Velayudhswamy Spg. Mills (P.) Ltd. (supra)* is stayed by the Apex Court. It is pertinent to mention that in the absence of any stay granted by the Apex Court against the operation of the judgment of the High Court, all the lower judiciaries as well as quasi judicial authorities are bound to follow the decision of the Jurisdictional High Court. Since the Commissioner (Appeals) has rightly followed the decision of the High Court and held the issues in favour of the assessee, it is not necessary to interfere with the orders of the Commissioner (Appeals).