Pr. Commissioner of Income Tax-7 v. M/s. Sterling Agro Industries Ltd.

ITA 105/2023 (CM Appl. 8120-21/2023)

2023:DHC:2330-DB; ITA 105/2023 | 2023-02-20

Section 80-IA(5): already-absorbed losses before the initial year cannot be notionally restored to reduce eligible profits.

Income-tax Act, 1961: 80-IA(5)

High Court of Delhi | Division Bench | Rajiv Shakdher, J. | Tara Vitasta Ganju, J.

Assessment years: 2016-17

01 FACTS OF THE CASE

For AY 2016-17, the AO's 29 December 2018 assessment disallowed a section 80-IA deduction of Rs.12,63,07,697. CIT(A) granted relief and ITAT dismissed Revenue's appeal on 22 July 2022. Revenue challenged the treatment of losses/depreciation already absorbed against other business income before the initial assessment year, relying on Karnataka's Microlabs decision. The High Court admitted and answered the proposed question.

Source: PDF p.2

02 DISCUSSION BY THE HON'BLE COURT

The Court adopted Velayudhaswamy Spinning Mills and Prabhu Spinning Mills, and expressly disagreed with Microlabs. Section 80-IA(5) treats eligible business as the only income source for computation; it does not recreate losses already absorbed before the initial year. Prior acceptance without notional adjustments supplied an additional reason. The Court discussed the initial-year option and CBDT Circular 1/2016, while expressly noting that issue was not proposed before it.

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03 JUDICIAL DECISION

The question of law was answered against Revenue and for the assessee, and the appeal disposed of. The 56-day filing delay had been condoned.

Source: PDF p.1

04 OUTCOME / IN WHOSE FAVOUR

The deduction relief remained intact on the disputed notional-loss issue. This was a reasoned answer to an admitted legal question, not merely closure for absence of a substantial question. No current status of the Microlabs Supreme Court proceedings is established by this source.

Source: PDF p.2

05 EXPERT COMMENTS

AKHB EXPERT COMMENTS — editorial analysis, distinct from the Court's findings.

The fiction has a defined temporal and computational purpose — The Court distinguishes treating the eligible business as the only source from recreating pre-initial-year losses already absorbed elsewhere. A useful computation should separate those absorbed amounts from losses arising from the chosen initial year onwards. The judgment does not authorise ignoring all losses or depreciation regardless of their timing and actual set-off history.

Initial-year choice is context, not the admitted dispute — The Court approved the reasoning linked to Circular 1/2016 and section 80-IA(2), but explicitly said that issue was not proposed. Accordingly, the operative answer is about notional restoration of previously absorbed losses. The source does not identify this taxpayer's selected initial year or supply a year-by-year schedule; those records remain necessary for applying the principle.

The disagreement between courts must remain visible — Delhi rejected the weight Microlabs placed on the non-obstante clause and adopted the Madras interpretation on its own reasoning, with consistency as additional support. Counsel's statement of Supreme Court pendency is dated to this judgment. The note therefore cannot present the issue as nationally undisputed or report an unverified later Supreme Court outcome.

Source: PDF p.3

SOURCE & VERIFICATION

High Court of Delhi source judgment/order

Complete 10-page source PDF; corrected note based on this document.

All 10 original pages read and visually inspected; all five panels audited.

Open cited source rendition

All ten original pages read and visually inspected; quoted precedent text distinguished from the Court's own analysis.

STATUTORY SCOPE

Source-era section 80-IA(5) interpretation; paragraph 10 mislabels the first appellant although recording relief to the assessee. The actual proposed question concerned notional loss adjustment, not selection of initial year.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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