

CASE NO.:
Appeal (civil) 5810 of 2006

PETITIONER:
S.A. Builders Ltd.

RESPONDENT:
Commissioner of Income Tax (Appeals) Chandigarh and Anr.

DATE OF JUDGMENT: 14/12/2006

BENCH:
S.B. Sinha & Markandey Katju

JUDGMENT:
JUDGMENT

KATJU, MARKANDEY J.

Leave granted.

This appeal has been filed against the impugned judgment dated 23.7.2004 of the Punjab and Haryana High Court in ITA Nos. 8-9 of 2003.

Heard learned counsel for the parties and perused the record.

The appellant-assessee is a company engaged in the business of civil construction. It claimed for deduction under Section 32AB of the Income Tax Act, 1961, which was raised as an additional ground before the Income Tax Appellate Tribunal, Chandigarh (hereinafter referred to as the 'Tribunal'). In paragraphs 19-21 of its order dated 20.6.2002 the Tribunal has rejected the claim of the assessee on two grounds. The first ground is that the assessee was engaged in the business of civil construction and was not carrying on any manufacturing activity. Hence, the claim was not allowable in view of the judgment of this Court in CIT v. N.C. Budharaja & Co., (1993) 204 ITR 412. The second ground for rejecting the claim was that the claim was not based on facts on record. The deduction under Section 32AB was not automatic and was subject to various conditions laid down in that provision. Whether the assessee fulfilled those conditions for claiming the deduction or not required examination into facts which were not on record. Even before the Tribunal the assessee had not placed any material to show how the assessee is entitled to such deduction. Hence the Tribunal rejected the assessee's claim. By the impugned judgment the High Court has agreed with the view of the Tribunal.

We have also carefully considered the matter and we are fully in agreement with the Tribunal as well as the High Court.

For both the reasons mentioned by the Tribunal in paragraphs 19-21 of its order, we are of the opinion that the assessee was not entitled to the deduction claimed by it. There is, thus, no merit in this appeal which is accordingly dismissed.