

## HON'BLE SUPREME COURT HELD THAT 'MARKET VALUE' TO CLAIM DEDUCTION UNDER THE INCOME TAX ACT WOULD MEAN THE PRICE DETERMINED IN AN ENVIRONMENT OF FREE TRADE IN THE OPEN MARKET



The Hon'ble Supreme Court in its Judgement dated 06.12.2023, dismissed the Civil Appeal No. 13771 of 2015 and other batch Appeals filed by the Commissioner of Income Tax (Revenue). The core and common issue raised in all the batch Appeals was the re-computation of deductions under Section 80 IA of the Income Tax Act, 1961 by the Assessing Officer which was set aside by the Income Tax Appellate Tribunal (ITAT) and upheld by the different High Courts by accepting the contention of the Assessee.

The substantial question of law before the Hon'ble Supreme Court was that whether the 'Market Value' to claim deduction under Section 80-IA should be the price at which the Assessee i.e., Jindal Steel & Power Limited for AY 2001-2002 sells power to the State Electricity Board (Electricity Board) under a Power Purchase Agreement, or if it should be the price charged by the SEB to industrial consumers.

The Hon'ble Supreme Court, while interpreting the expression "Market Value" under Section 80-IA of the Income Tax Act held that "Market Value" would mean the price of such goods determined in an environment of free trade or competition. It is an expression which denotes the price of a good arrived at between a buyer and a seller in the open market i.e., where the transaction takes place in the normal course of trading. Such pricing is unfettered by any control or regulation; rather, it is determined by the economics of demand and supply.

Based on this interpretation, the Hon'ble Supreme Court held that the Assessee had no other alternative but to sell or supply the surplus electricity to the Electricity Board. Being in a dominant position, the Electricity Board could fix the price to which the Assessee really had little or no scope to either oppose or negotiate. Therefore, determination of tariff between the Assessee and the Electricity Board cannot be said to be an exercise between a buyer and a seller in a competitive environment or in the ordinary course of trade and business i.e., in the open market. Such a price cannot be said to be the price which is determined in the normal course of trade and competition.

Accordingly, the Hon'ble Supreme Court was pleased to hold the ITAT had rightly computed that Market Value of electricity supplied by the Captive Power Plants of the Assessee i.e., Jindal Steel & Power to its industrial units after comparing it with the rate of power available in the open market i.e., the price charged by the SEB while supplying electricity to the industrial consumers.

This interpretation of the market value' by the Hon'ble Supreme Court aligns with the principles of economic theory, where market forces play a central role in determining the value of goods through free and voluntary exchange between parties.

Jindal Steel & Power Limited was represented by Mr. S Ganesh, Senior Advocate, instructed by Vaish Associates and SKV Law Offices lead by Mr. Shri Venkatesh (Managing Partner), Mr. Ashutosh K. Srivastava (Counsel), Mr. Nihal Bhardwaj (Associate), Mr. Punyam Bhutani (Associate) and Mr. Nikunj Bhatnagar (Associate).

The link to access the Judgement is [here](#).