

**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI  
BEFORE SHRI D. KARUNAKARA RAO, ACCOUNTANT MEMBER AND  
SHRI RAVISH SOOD, JUDICIAL MEMBER**

I.T.A. No.6002/M/2014 (Assessment Year: **2011-2012**)

ITO-24(3)(2), R.No.704, C-11, Pratyakshakar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai – 400 061.	बनाम/ Vs.	M/s. Neeta Enterprises, 141, Gundecha House, Jawahar Nagar, Goregaon (W), Mumbai – 400062.
स्थायी लेखा सं./PAN : AACFN4947M		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri Vimal Punmiya
प्रत्यर्थी की ओर से/ Respondent by	:	Shri N.P. Singh, CIT-DR

सुनवाई की तारीख /Date of Hearing : 21.09.2016

घोषणा की तारीख /Date of Pronouncement : 23.09.2016

**आदेश / O R D E R**

**PER D. KARUNAKARA RAO, AM:**

This appeal filed by the Revenue on 26.9.2014 is against the order of the CIT (A)-34, Mumbai dated 17.7.2014 for the assessment year 2011-2012. In this appeal, assessee raised the following grounds which read as under:-

- "1. Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in allowing deduction u/s 80IB(10) of the Act ignoring the fact that the approval of the local authority was obtained on 28.11.1992, ie much before 1.10.1998, the date on or after which the project approved were eligible for deduction u/s 80IB(10) of the Act.
2. Whether on the facts and in the circumstances of the case and in law, the Ld CIT (A) erred in allowing deduction u/s 80IB(10) of the Act ignoring the fact that it has not obtained completion certificate from local authority before 31.3.2008 which is mandatory as per Explanation (ii) to section 80IB(10) of the Act."

2. Before us, in connection with **Ground no.1**, Ld Counsel for the assessee submitted that the issue raised in this appeal relates to the "**commencement**" of the housing project for the purpose of section 80IB(10) of the Act. Stating that this issue stands covered in favour of the assessee in assessee's own case by virtue of the order of the Tribunal for the earlier assessment years, Ld Counsel for the assessee filed a copy of the order of the Tribunal in ITA No.2898/M/2010 (2006-07) and others, dated 4.6.2014. He read out the relevant paras 18 and 19 of the said Tribunal's order.

3. After hearing both the parties and on perusal of the cited order of the Tribunal in assessee's own case (supra), we find, the following lines are relevant for adjudication of Ground no.1 and the same read as under:-

*"19. .... Therefore, we find no infirmity in the finding recorded by the Ld CIT (A) that the AO was wrong in holding that the housing project of the assessee had commenced before 1.10.1998. We uphold his order. Since, the facts and circumstances in all the three cases are identical, all the appeals filed by the Revenue are dismissed."*

4. The above finding of the Tribunal if read along with the finding of the CIT (A) in his order vide the contents of para 2.4 on page 14, the decision taken by the CIT (A) is fair and reasonable and the issue raised by the Revenue in Ground no.1 is required to be dismissed. We order accordingly. Thus, Ground no.1 raised by the Revenue is **dismissed**.

5. Regarding **Ground no.2** relating to the date of completion of the project, also it is the contention of the Ld Counsel for the assessee that the same stands covered and the CIT (A)'s decision given in para 3.4 of his order at page 32 is relevant in this regard. It is the finding of the CIT (A) that the project in question was approved prior to the amendment and therefore, the provisions relating to the 'due date' fixed in the Statute are inapplicable. However, notwithstanding the same, it is the argument of the Ld Counsel for the assessee that the housing project consists of 'seven' buildings (A to G) and the buildings 'A, B and C' were completed on 18.2.2006; buildings 'D, E and F' were completed on 3.2.2007 and finally, the building 'G' was completed on 29.3.2008 ie on or before the due date of 31.3.2008. In this regard, he brought our attention to the copies of the completion certificates enclosed to the note provided by the Ld AR dated 7.9.2016.

6. On perusal of the above facts as well as the relevant material placed before us and after hearing both the parties, we find, the decision given by the CIT (A) vide para 3.4 of his order is fair and reasonable and therefore, it does not call for any interference. Accordingly, Ground no.2 raised by the Revenue is **dismissed**.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 23<sup>rd</sup> September, 2016.

Sd/-

**(RAVISH SOOD)**  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक 23.09.2016

Sd/-

**(D. KARUNAKARA RAO)**  
ACCOUNTANT MEMBER

व.नि.स./ OKK, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,  
उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / **ITAT, Mumbai**