

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "B", MUMBAI**

**Before Shri Mahavir Singh, Judicial Member, and
Shri Ashwani Taneja, Accountant Member**

**ITA Nos. 6000 & 6001/Mum/2014
Assessment Years: 2006-07 & 2008-09**

ITO 24 (3) (2) R.No.704 C-11 Pratyakshkar Bhavan, Bandra Kurla Complex, Bandra (E), Mumbai, Pin 400051	बनाम/ Vs.	Neeta Enterprises 141 Gudnecha House, Jawahar Nagar, Goregaon (W) Mumbai, Pin 400062
(Appellant)		(Respondent)
P.A. No.AACFN4947M		

Appellant by	N.P.Singh (CITDR)
Revenue by	Vimal Punmiya (AR)
Date of Hearing:	8/3/2017
Date of Order:	16/03/2017

आदेश / O R D E R

Per Ashwani Taneja, A.M:

These appeals have been filed by the assessee for two years involving identical issues, therefore, these were heard together and being disposed of by this common order.

2. We shall first take up appeal for assessment year 2006-07 filed by revenue against the order passed by Commissioner of Income-tax (Appeals)-34 [herein after called CIT(A)], dated 17.7.2014, u/s143(3) r.w.s.147 of the Act for A.Y. 2006-07 on the following grounds:-

“Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing deduction u/s. 80 IB(10) of the I. T. Act ignoring the fact that the approval of the local authority was obtained on 28.11.1992, i.e. much before 01.10.1998, the date on or

after which the project approved were eligible for deduction u/s. 80 IB(10).

Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing deduction u/s. 80 IB (10) of the I. T. Act ignoring the fact that it has not obtained completion certificate from local authority before 31.03.2008 which is mandatory as per explanation (ii) to Section 80 IB (10) of the Act.

The appellant craves leave to amend or alter any ground or add a new ground.

The appellant prays that the order of the CIT(A) be set aside and matter may be decided according to law. The appellant craves leave to amend or alter any ground or add new ground which may be necessary”.

3. During the course of hearing, it was stated at the outset by the Ld. Counsel of Assessee that the grounds raised by the revenue are already covered in favour of the assessee on the basis of decision of the Tribunal rendered in assessee's own case for A.Ys. 2007-08, 2009-10 & 2011-12. He also placed copy of the judgment of the Tribunal of these years before us.
4. Per contra Ld. DR did not make any distinction on facts or on law and fairly agreed that the issues are involved in favour of the assessee as on date.
5. We have gone through the orders passed by the Tribunal. It is noted that identical issues were raised in assessee's own case for A.Ys. 2007-08, 2009-10, 2010-11 & 2011-12. In this decision it has been held by the Tribunal that approval of the Housing Project was obtained by the assessee after entering into the development agreement on 10th January 2003, therefore, project cannot be stated to be commenced before 1.10.1998.
6. Similarly, with regard to the completion of the project it has been held that assessee had completed the construction work in all respects before 31.3.2008 and obtained occupation certificate also, therefore

benefits of deduction u/s-80 IB (10) could not have been denied to the assessee.

7. Thus, both the objections raised in ground No. 2 by the revenue have been taken into account by the Tribunal in subsequent years and it was held that assessee was eligible for benefit of deduction u/s 80 IB(10). No distinction has been made out by Ld. CIT DR before us on facts or legal position. Therefore, respectfully following the orders of the Tribunal for these years, we find that no interference is called for in order of CIT(A), therefore, same is upheld. As a result, grounds raised by the revenue are dismissed.

8 Appeal filed by the revenue is dismissed.

9. It was informed that issues involved in appeal filed by the revenue for assessment year 2008-09 are identical, therefore, respectfully following our order for A.Y. 2006-07, this appeal filed by the revenue is also dismissed.

10. As a result, both appeals filed by the revenue are dismissed.

Order was pronounced in the open court at the conclusion of hearing.

Sd/-
(MAHAVIR SINGH)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 16.03.2017

V. P. Singh

Sd/-
(ASHWANI TANEJA)
Accountant Member