

आयकर अपीलीय अधिकरण, जयपुर न्यायपीठ, जयपुर
IN THE INCOME TAX APPELLATE TRIBUNAL, JAIPUR BENCHES, JAIPUR

श्री कुल भारत, न्यायिक सदस्य एवं श्री विक्रम सिंह यादव, लेखा सदस्य के समक्ष
BEFORE: SHRI KUL BHARAT, JM & SHRI VIKRAM SINGH YADAV, AM

आयकर अपील सं./ ITA No. 912/JP/16
निर्धारण वर्ष/Assessment Year : 2012-13

The ACIT, Circle-1, Jaipur	बनाम Vs.	Shri Jagdish Prasad Soni, 4088 Top Khane Ka Rasta, Chandpole Bazar, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN No. AHNPS 6614E		
अपीलार्थी /Appellant		प्रत्यर्थी / Respondent

आयकर अपील सं./ ITA No. 913/JP/16
निर्धारण वर्ष/Assessment Year : 2013-14

The ACIT, Circle-1, Jaipur	बनाम Vs.	Shri Jagdish Prasad Soni, 4088 Top Khane Ka Rasta, Chandpole Bazar, Jaipur
स्थायी लेखा सं./जीआईआर सं./PAN No. AHNPS 6614E		
अपीलार्थी /Appellant		प्रत्यर्थी / Respondent

निर्धारिती की ओर से / Assessee by : Shri Sitaram Sharma (CA)
राजस्व की ओर से / Revenue by : Shri Prithviraj Meena,(Addl.CIT)

सुनवाई की तारीख / Date of Hearing : 27.02.2017
घोषणा की तारीख / Date of Pronouncement : 28/02/2017.

आदेश / ORDER

PER SHRI VIKRAM SINGH YADAV, A.M.

These are two appeals filed by the Revenue against the order of Ld. CIT (Appeal)-I, Jaipur dated 11.08.2016 and 31.08.2016 for A.Y. 2012-13 and 2013-14 respectively. The sole ground taken by the Revenue is as under:

“Whether on the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in deleting the disallowance of Rs. 56,40,707/- for A.Y. 2012-13 and Rs. 53,23,134/- for A.Y 2013-14 on account of deduction u/s 10AA of the Income Tax Act, 1961 ignoring that the assessee failed to fulfil the mandatory condition prescribed u/s 10AA(4)(ii) of the IT Act as the business was formed by reconstruction of old unit which was his proprietary concern in the same trade of business.”

2. At the outset, the Id. AR submitted that the matter is squarely covered in favour of the assessee by the decisions of Hon’ble ITAT, Jaipur Bench in ITA No. 642/JP/10 dated 29.04.2011 for A.Y. 2007-08, ITA No. 424/JP/12 dated 26.02.2014 for A.Y 2008-09 and 2009-10, in ITA No.671/JP/13 for A.Y. 2010-11 dated 24.11.2015 and in ITA No. 754/JP/14 and 780/JP/14 dated 27.05.2016. The Id. AR further submitted that the AO has not brought any new fact on record in this subject year but has repeated his findings recorded in the assessment order for A.Y. 2007-08. In view of that, the earlier orders of the Hon’ble ITAT in assessee’s own case should be followed and necessary relief may be granted to the assessee.

3. The Coordinate Bench in its order dated 29.04.2011 (ITA No. 642/JP/10) has given its detailed findings at para 4.4 to 4.9 of its order wherein the Coordinate Bench had allowed the claim of the assessee u/s 10AA of the Act which has been followed in the subsequent years.

4. The Ld. DR is heard who has relied on the order of the AO. The Ld. DR also brought to the notice of the Bench that the department has not accepted the decision of the Hon’ble Tribunal rendered in the subject matter in the earlier years and appeal has been admitted before the Hon’ble Rajasthan High Court.

5. We have heard the rival contentions and perused the material available on record. Undisputedly, there is no change in the facts and circumstances of the case or in the legal position by virtue of which the claim of deduction u/s 10AA has been disallowed by the A.O in this year and in the earlier years. In respect of earlier years wherein the matter has been decided in favour of the assessee by the Coordinate Benches, though appeals have been admitted by the Hon'ble Rajasthan High Court, it was informed at the Bar that the Hon'ble Rajasthan High Court while admitting the appeals filed by the department has not stayed the operation of the orders passed by the Coordinate Benches earlier. In light of above, respectfully following the decision of the Coordinate Benches, we do not see any infirmity in the order of the Ld. CIT(A) allowing the deduction u/s 10AA of the Act. In the result the ground taken by the Revenue is dismissed in respect of both the years under consideration.

In the result the appeals filed by the Revenue in both the years are dismissed.

Order pronounced in the open court on 28/02/2017.

Sd/-

(KUL BHARAT)

न्यायिक सदस्य / Judicial Member

Sd/-

(VIKRAM SINGH YADAV)

लेखा सदस्य / Accountant Member

Jaipur

Dated:- 28/02/2017

आदेश की प्रतिलिपि अग्रेषित / Copy of the order forwarded to:

1. अपीलार्थी / The Appellant- The ACIT, Circle-1, Jaipur

2. प्रत्यर्थी / The Respondent- Shri Jagdish Prasad Soni, Jaipur
3. आयकर आयुक्त / CIT –I, Jaipur
4. आयकर आयुक्त(अपील) / The CIT(A) –I, Jaipur
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, जयपुर / DR, ITAT, Jaipur
6. गार्ड फाईल / Guard File (ITA No.912 & 913/JP/2016)

आदेशानुसार / By order,

सहायक पंजीकार / Assistant. Registrar.