

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F", NEW DELHI**

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No.5270/DEL/2015  
Assessment Year: 2012-13

DCIT Circle 2 Dehradun	v.	Pankaj Nagalia 13-B, New Survey Road Dehradun
		TAN/PAN:AAVPN2861M
(Appellant)		(Respondent)

Appellant by:	Shri Atiq Ahmad, D.R.		
Respondent by:	Shri Anil Jain, Advocate		
Date of hearing:	09	11	2017
Date of pronouncement:	13	11	2017

**ORDER**

***PER AMIT SHUKLA, J.M.:***

The aforesaid appeal has been filed by the Revenue against the impugned order dated 9/7/2015 passed by the Id. CIT (Appeals), Dehradun for quantum of assessment passed under section 143(3) for assessment years 2012-13 by raising the following grounds of appeal:-

- 1. The Ld. CIT (Appeals) erred in law in allowing deduction u/s 80IC of the I.T. Act, to the assessee failing to appreciate that since the term 'eco tourism' has not been defined in the Income Tax Act, 1961, the machinery provision for operationalising the said deduction is absent and hence the main provision for the said deduction should also fail.*

*2. The Ld. CIT (Appeals) erred in failing to appreciate that, if only having an NOC from Pollution Control Board was sufficient for a hotel to be covered within the scope of eco-tourism, all hotels in Uttarakhand should get the said deduction and that would be against the legislative intent.*

2. At the outset, the ld. counsel for the assessee submitted that, here the main issue involved is, whether the deduction under section 80IC would be applicable to the assessee who is running a hotel for the purpose of eco-tourism. This precise matter in the earlier years had travelled upto the stage of Hon'ble High Court of Uttarakhand, whereby the Hon'ble High Court in I.T.A. No 1/2016 had set aside the matter to the file of the Assessing Officer after detailed discussion and, therefore, following the same precedence, the matter in the assessment year under consideration should be remanded back to the file of the Assessing Officer on similar lines.

3. The ld. D.R. also admitted that in the light of the judgment of the Hon'ble High Court, the matter should be remanded back to the file of the Assessing Officer.

4. After considering the aforesaid submissions and on a perusal of the impugned order, we find that the ld. CIT (A) has followed the appellate order for earlier years. The finding given in earlier years have been discussed in detail by the Hon'ble High Court vide judgment and order dated 16/6/2016 and remanded the matter back to the file of the Assessing Officer to pass afresh order. Accordingly, following the judicial precedence on similar lines, we are remanding back the matter to the file of the Assessing Officer to pass afresh assessment order in line with the

observations of the Hon'ble High Court. Thus, the appeal filed by the Revenue is allowed for statistical purposes.

5. In the result, appeal of the Revenue is allowed for statistical purposes.

**Order pronounced in the open Court on 13<sup>th</sup> November, 2017.**

Sd/-  
**[PRASHANT MAHARISHI]**  
**ACCOUNTANT MEMBER**

Sd/-  
**[AMIT SHUKLA]**  
**JUDICIAL MEMBER**

DATED:13<sup>th</sup> November, 2017

JJ:1011

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1. Appellant
2. Respondent
3. CIT(A)
4. CIT
5. DR

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