

आयकर अपीलिय अधिकरण, इन्दौर न्यायपीठ, इन्दौर
**IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE BENCH, INDORE**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
AND
SHRI MANISH BORAD, ACCOUNTANT MEMBER**

**ITA No.1304/Ind/2016
Assessment Year: 2006-07**

M/s. Madhur Vishwanath Warehouse, 192, Prabhu Nagr, Bhopal	बनाम/ Vs.	ACIT-1(2) Bhopal
(Appellant)		(Revenue)
P.A. No.AALFM476H		

**ITA No.1305/Ind/2016
Assessment Year: 2006-07**

Madhur Mahesh Warehouse NH-69, Hoshangabad Road,Raisalpur, Hoshangabad	बनाम/ Vs.	ACIT-1(2) Bhopal
(Appellant)		(Revenue)
P.A. No.AAGFM7884A		

Appellant by	Shri S.S. Solanki, CA
Respondent by	Shri Lal Chand, CIT-DR
Date of Hearing:	31.01.2018
Date of Pronouncement:	31.01.2018

आदेश / O R D E R

PER BENCH:

These two appeals by two different assesseees against two different orders of Commissioner of Income Tax (Appeals)-2, Bhopal

dated 01.07.2016 and 13.07.2016 respectively. Since the similar issue is involved in three appeals. Both were taken up together for the sake of convenience and are being disposed of by way of consolidated order.

First we take assessee's appeal in ITA No.1304/Ind/2016

The assessee has raised following grounds of appeal:

“On the facts and circumstances of the case, the ld. AO has erred in not providing adequate opportunity and Ld. CIT(A) has erred by upholding the view of AO.

2. On the facts and circumstances of the case, the ld. AO has erred in disallowing the deduction claimed u/s 80IB(11A) being claimed year after year and Ld. CIT(A) has erred by upholding the view of AO.

3. On the facts and circumstances of the case, the ld. AO has erred fact as well as in considering the capital in holding by the partner of the undisclosed income of the firm and Ld. CIT(A) has erred in confirming the same.”

2. At the outset Ld. counsel for the assessee submitted that the issue involved is regarding the claim of deduction u/s 80(IB)11A of the Income Tax Act, 1961, (hereinafter called as ‘the Act’).

Ld. counsel submits that no sufficient opportunity was granted by Ld. CIT(A). The assessee wishes to furnish the relevant documents. He prayed that matter may be restored to the file of the Ld. CIT(A) for fresh decision. Ld. CIT-DR has no objection if the matter is restored to the file of the Ld. CIT(A), for reconsideration of assessee's claim for deduction.

3. We have heard the rival contention and perused material on record. We find that the assessee was granted sufficient opportunity, however, in the interest of justice we deem it proper

that if a final opportunity be granted to the assessee for furnishing documents in support of its claim on the basis of which the Ld. CIT(A) would adjudicate the eligibility and entitlement for deduction u/s 80(IB)(11A) of the Act. Hence, we set aside the impugned order and restore the grounds to the file of the Ld. CIT(A) for decision afresh. Accordingly appeal of the assessee is allowed for statistical purposes.

Now we take in ITANo.1305/Ind/2016

4. Both the parties submitted the facts and circumstances of this case are similar to date of ITANo.1304/Ind/2016. In view of this the present appeal i.e. ITANo.1305/In/2016 is also allowed for statistical purposes on same reasoning.

5. In the result, appeals of both the assessees in ITANo.1304/Ind/2016 & ITANo.1305/In/2016 are allowed for statistical purposes.

Order was pronounced in the open court on 31.01.2018.

Sd/-
(MANISH BORAD)
CCOUNTANT MEMBER

Sd/-
(KUL BHARAT)
JUDICIALMEMBER

Indore; दिनांक Dated : 31 / 01/2018

Patel, P.S./नि.स.

Copy to: Assessee/AO/Pr. CIT/ CIT (A)/ITAT (DR)/Guard file.

By order
Private Secretary/DDO, Indore