

IN THE INCOME-TAX APPELLATE TRIBUNAL "C" BENCH MUMBAI
BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER
AND SHRI PAWAN SINGH JUDICIAL MEMBER
ITA No. 2210/Mum/2017 (Assessment Year 2012-13)

The Indian Hume Pipe Company Ltd., Construction House, 2 nd Floor, Walchand Hirachand Road, Ballard Estate, Mumbai-400001. PAN: AA ACT4063D	Vs.	ACIT, CC-3(3) Room No. 1923, 19 th Floor, Air India Building, Nariman Point, Mumbai-400021.
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Appellant

Appellant by

Respondent by

Date of Hearing

Date of Pronouncement

Respondent

: Pradnya Khapne (AR)

: Shri Love Kumar (DR)

: 19.09.2018

: 19.09.2018

ORDER UNDER SECTION 254(1) OF INCOME TAX ACT

PER PAWAN SINGH, JUDICIAL MEMBER;

1. This appeal by assessee under Section 253 of Income-tax Act is directed against the order of Id. CIT(A)-51, Mumbai dated 23.02.2017 for Assessment Year 2012-13. The assessee has raised the following grounds of appeal:

1) On the facts and in circumstances of the case and in law the Ld. CIT (A) erred in confirming the disallowance of claim of deduction u/s SOIA of the Income Tax Act, 1961 relying upon the decisions of the Hon'ble ITAT Mumbai, for I.T. Asst. Years 2005-06 to 2010-11, for the reasons mentioned in the order.

2) On the facts and in circumstances of the case and in law the Ld. CIT(A) erred in confirming the disallowance of claim of deduction u/s 80IA of the I.T. Act, 1961, treating the appellant as work contractor and not as developer for the reasons mentioned in the order.

2. At the outset of hearing, the Id. Authorized Representative (AR) of the assessee submits that both the grounds of appeal raised by assessee are covered in favour of assessee by the decision of Tribunal in assessee's own

case for Assessment Year 2011-12 in ITA No. 2868/Mum/2016 dated 03.01.2017. On the other hand, the Id. Departmental Representative (DR) for the Revenue after going through the contents of the decision submits that similar ground of appeal was restored by the Tribunal to the file of Assessing Officer in assessee's own case for Assessment Year 2011-12 in ITA No. 2868/Mum/2016 vide order date 03.01. 2017. Therefore, he has no objection, if this ground of appeal is also restored to the file of Assessing Officer with similar direction.

3. We have considered the rival submission of both the parties and have gone through the orders of authorities below. We have noted that similar ground of appeal was raised by assessee in Assessment Year 2011-12 in ITA No. 2868/Mum/2016 and the Co-ordinate Bench of Tribunal by following the decision of Assessment Year 2009-10 and 2010-11 restored the same to the file of Assessing Officer. Therefore, respectfully following the decision of Co-ordinate Bench, the appeal of the assessee is restored to the file of Assessing Officer to decide in accordance with the direction contained in order dated 03.01.2017 in ITA No. 2868/Mum/2016.
4. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 19 /09/2018.

Sd/-
G.S. PANNU
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Date: 19.09.2018
SK

Copy of the Order forwarded to :

1. Assessee
2. Respondent
3. The concerned CIT(A)
4. The concerned CIT
5. DR "C" Bench, ITAT, Mumbai
6. Guard File

**BY ORDER,
Dy./Asst. Registrar
ITAT, Mumbai**