

आयकर अपीलीय अधिकरण पुणे न्यायपीठ "ए" पुणे में
**IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE**

सुश्री सुषमा चावला, न्यायिक सदस्य एवं, श्री डी. करुणाकरा राव, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI D. KARUNAKARA RAO, AM

आयकर अपील सं. / ITA No.2864/PUN/2016

निर्धारण वर्ष / Assessment Year : 2012-13

The Dy. Commissioner of Income Tax,
Circle – 14, Pune

.... अपीलार्थी/Appellant

Vs.

Maharashtra State Warehousing Corporation,
583/B, Market Yard,
Gultekdi, Pune – 411037

.... प्रत्यर्थी / Respondent

PAN: AABCM3988M

अपीलार्थी की ओर से / Appellant by : Shri Mahesh Kade

प्रत्यर्थी की ओर से / Respondent by : Shri Sarvesh Khandelwal

सुनवाई की तारीख / Date of Hearing : 10.01.2019	घोषणा की तारीख / Date of Pronouncement: 11.02.2019
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आदेश / ORDER

PER SUSHMA CHOWLA, JM:

The appeal filed by Revenue is against order of CIT(A)-7, Pune, dated 30.09.2016 relating to assessment year 2012-13 against order passed under section 143(3) of the Income-tax Act, 1961 (in short 'the Act').

2. The Revenue has raised the following grounds of appeal:-

01. Whether on the facts and in the circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) has erred in holding that the assessee was eligible for deduction claimed under section 80IA(4) of the I T Act amounting to Rs.79,43,510/-.
02. Whether on the facts and in the circumstances of the case and in law, the Ld. Commissioner of Income Tax (Appeals) has erred in relying on the decision of Container Corporation of India Ltd. Vs ACIT (2012) 346 ITR 140 (Delhi) which is misplaced.

03. *For the facts and such other reasons as may be urged at the time of hearing, the order of the Ld. Commissioner of (Appeals), Pune may be vacated and that of the Assessing Officer be restored.*

3. The learned Authorized Representative for the assessee at the outset pointed out that the issue raised by Revenue in the present appeal is squarely covered by the order of Tribunal in assessee's own case in earlier years.

4. The only issue raised in the present appeal filed by Revenue is against order of CIT(A) in holding the assessee to be eligible for claiming deduction under section 80IA(4) of the Act at ₹ 79,43,510/-.

5. The learned Departmental Representative for the Revenue fairly admitted that the issue has been decided by the Tribunal.

6. We have heard the rival contentions and perused the record. The assessee was State Government Undertaking and had set up Inland Container Depot (ICD) and Container Freight Station (CFS) for handling bonded warehouse on the leasehold land of SIDCO in the vicinity of Jawaharlal Nehru Port Trust. The Assessing Officer disallowed the claim of assessee under section 80IA(4) of the Act on the ground that the assessee has failed to furnish a certificate from the concerned port authorities certifying that the structure at the port for storage, loading and unloading etc. formed part of Port.

7. We find that similar claim of deduction under section 80IA(4) of the Act was denied to the assessee in assessment year 2009-10 and thereafter also in assessment year 2011-12. The Tribunal allowed the claim of assessee in assessment year 2009-10 in ITA No.820/PN/2013 vide order dated 09.05.2016, which was followed by the Tribunal itself in ITA No.1014/PUN/2015, relating to assessment year 2011-12, vide order dated 28.07.2017. The relevant findings of Tribunal are at pages 3 to 7 under paras 6 and 7 of the order dated

28.07.2017, in which findings of earlier order of Tribunal are reproduced. For the sake of brevity, we are not reproducing the findings of Tribunal, to which reference is being made by us. The CIT(A) has also allowed the claim of assessee in turn, relying on the order of Tribunal dated 09.05.2016 for earlier year.

8. The issue raised in the present appeal is similar to the issue before the Tribunal in earlier years and following the same parity of reasoning, we hold that the assessee is entitled to claim the deduction under section 80IA(4) of the Act. Thus, the grounds of appeal raised by Revenue are dismissed.

9. In the result, the appeal of Revenue is dismissed.

Order pronounced on this 11th day of February, 2019.

Sd/-
(D.KARUNAKARA RAO)
लेखा सदस्य / ACCOUNTANT MEMBER

Sd/-
(SUSHMA CHOWLA)
न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक Dated : 11th February, 2019.

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-7, Pune;
4. The Pr.CIT, Pune-6, Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune