

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

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।  
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.1387/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2013-14

Assistant Commissioner of Income Tax,  
Circle - 7, Pune

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Krishna Haribhau Lohokare,  
Flat No. 20, United Apartment,  
East Street, Camp,  
Pune - 411001

PAN : AAFPL4889D

.....प्रत्यर्थी / Respondent

Assessee by : Shri Vipin Gujrathi  
Revenue by : Shri N. Ashok Babu

सुनवाई की तारीख / Date of Hearing : 15-07-2019

घोषणा की तारीख / Date of Pronouncement : 06-08-2019

**आदेश / ORDER**

**PER VIKAS AWASTHY, JM :**

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals)-8, Pune dated 10-05-2018 for the assessment year 2013-14.

2. Shri Vipin Gujrathi appearing on behalf of the assessee submitted at the outset that the solitary issue raised in the appeal by the Revenue is against deleting the addition of Rs.4,05,98,192/- on account of disallowance of deduction u/s. 80IB(10) of the Income Tax Act, 1961 (hereinafter referred to as "the Act"). The ld. AR submitted that the assessee developed a housing project "Mahaganesh Nagari" situated at Kesav Nagar, Mundhwa, Pune. The assessee claimed deduction u/s. 80IB(10) in respect of the said project. The Assessing Officer disallowed assessee's claim of deduction on the ground that the project was not completed within the specified time. The ld. AR submitted that in respect of same project the assessee's claim of deduction u/s. 80IB(10) was disallowed by the Assessing Officer in assessment year 2006-07. The assessee carried the issue in appeal before the Tribunal in ITA No. 937/PN/2010. The Tribunal vide order dated 28-02-2013 held that the assessee is eligible to claim deduction u/s. 80IB(10) of the Act. Thereafter, in the assessment years 2008-09, 2009-10, 2010-11 and 2011-12 the Commissioner of Income Tax (Appeals) granted relief to the assessee. The Department carried the issue in appeal before the Tribunal in ITA Nos. 56, 57, & 58/PUN/2015 and ITA No. 1733/PN/2013 for the respective assessment years. The Tribunal dismissed the aforesaid appeals by the Revenue. The issue in the present appeal is identical to the one decided by the Tribunal. The ld. AR furnished orders of Tribunal in assessee's own case in preceding assessment years.

3. Shri N. Ashok Babu representing the Department fairly admitted that the assessee's claim of deduction u/s. 80IB(10) has been considered

by the Tribunal in assessment years 2006-07, 2008-09, 2009-10, 2010-11 and 2011-12. The ld. DR further submitted that the Revenue has filed appeal before the Hon'ble High Court against the decision of Tribunal.

4. Both sides heard. Orders of the authorities below perused. The solitary issue in appeal by the Revenue is against the assessee's claim of deduction u/s. 80IB(10) of the Act. The Commissioner of Income Tax (Appeals) granted relief to the assessee by following the orders of Tribunal in assessee's own case for preceding assessment years. We find that the Assessing Officer has been consistently denying the benefit of deduction u/s. 80IB(10) on the housing project developed by the assessee since assessment year 2006-07. The Tribunal allowed assessee's claim for the first time in ITA No. 937/PN/2010 (supra). Thereafter, the assessee's claim in the subsequent assessment year has been consistently allowed by the Commissioner of Income Tax (Appeals). In every assessment year the Revenue carried the matter in appeal before the Tribunal. The Tribunal dismissed the appeals of Revenue for the respective assessment years. In the present appeal, undisputedly, the facts are identical. No fresh material is brought to our notice to take a divergent view. Mere filing of appeal before the Hon'ble High Court against the order of Tribunal does not change the situation unless the order of Tribunal is stayed or reversed by superior Appellate Authority. For the parity of reasons given in the earlier assessment years, the appeal of Revenue is liable to be dismissed. We find no infirmity in the impugned order and the same is upheld and the appeal of Revenue is dismissed.

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

Order pronounced on Tuesday, the 06<sup>th</sup> day of August, 2019.

Sd/- (डी. करुणाकरा राव/D. Karunakara Rao) लेखा सदस्य / ACCOUNTANT MEMBER	Sd/- (विकास अवस्थी / Vikas Awasthy) न्यायिक सदस्य / JUDICIAL MEMBER
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पुणे / Pune; दिनांक / Dated : 06<sup>th</sup> August, 2019

RK

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-8, Pune
4. The Pr. Commissioner of Income Tax-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

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