

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "A", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.1589 & 1590/PUN/2017
निर्धारण वर्ष / Assessment Years : 2011-12 & 2012-13

ITO,
Ward-7(3), Pune

Vs.

Ramesh Vitthal Galande and
others, former Partners of
M/s. Vithalanjan Developers,
S.No.21, Sainikwadi,
Vadgaon Sheri,
Pune-411014
PAN : AAFFG1449K

(Appellant)

(Respondent)

Assessee by
Revenue by

None
Shri Alok Malviya

Date of hearing 31-01-2020
Date of pronouncement 31-01-2020

आदेश / ORDER

PER BENCH:

These two appeals by the Revenue arise out of the orders passed by the CIT(A), Pune-5, Pune on 20-03-2017 in relation to the assessment years 2011-12 and 2012-13. Both the appeals are based on similar facts and identical grounds. We are, therefore, proceeding to dispose them off by this consolidated order for the sake of convenience.

2. The only grievance raised in the present appeals is against the denial of deduction u/s 80IB(10) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

3. Briefly stated, the facts for the assessment year 2011-12 are that the assessee, at material time, was engaged in the business as developer and builder and had constructed a residential project called "La Gloriosa" at Vadgaon Sheri, Pune. Deduction was claimed u/s 80IB(10) of the Act. The AO observed in para 4 of the assessment order for the A.Y. 2011-12 that in the proceedings relating to the preceding year for the A.Y. 2010-11, he had disallowed the assessee's claim of deduction u/s 80IB(10) of the Act amounting to Rs.3.05 crore and odd on the ground that the assessee did not complete the entire project before the stipulated period. Another factor which was taken note of was that of the partial completion of the project. Swayed by the reasons given for the preceding assessment year, the AO did not grant deduction u/s 80IB(10) of the Act for the years under consideration as well. The Id. CIT(A) overturned the assessment orders by observing that the Tribunal has accepted the assessee's claim *qua* the assessment year 2010-11. The Revenue is aggrieved by the allowance of deduction

u/s 80IB(10) of the Act by the ld. CIT(A) for both the years under consideration.

4. We have heard the ld. DR and gone through the relevant material on record. There is no appearance from the side of assessee. From the material available on record, it is seen that the AO denied the benefit of deduction u/s 80IB(10) of the Act on the grounds similar to those of the assessment year 2010-11. The matter for such an earlier year came up for consideration before the Pune Benches of Tribunal in ITA No.1909/PUN/2014. Vide order dated 03.03.2017, the Tribunal has accepted the assessee's claim and allowed the claim u/s 80IB(10) of the Act. Since the facts and circumstances of the instant appeals are *mutatis mutandis* similar to those of the assessment year 2010-11, respectfully following the precedent, we uphold the impugned orders on this score.

5. In the result, the appeals are dismissed.

Order pronounced in the Open Court on 31st January, 2020.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 31st January, 2020
GCVSR

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A), Pune-5, Pune
4. The Pr.CIT, Pune-4, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे
“ए” / DR ‘A’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	31-01-2020	Sr.PS
2.	Draft placed before author	31-01-2020	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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