

IN THE INCOME TAX APPELLATE TRIBUNAL, SURAT BENCH  
BEFORE SHRI PAWAN SINGH JUDICIAL MEMBER AND  
Dr. ARJUN LAL SAINI ACCOUNTANT MEMBER

**ITA No. 1282/AHD/2017**

(Assessment year: 2008-09)

*(Virtual Court hearing)*

Assistant Commissioner of Income Tax, Vapi Circle, Vapi	vs.	M/s. Lantech Technologies, 104, Balaji Industrial Estate, Piparia, Silvassa, (U.T.)  <b>PAN: AACFL0823A</b>
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Appellant by	Shri Hardik Vora - AR
Respondent by	Shri O P Vaishnav – CIT(DR)
Date of hearing	12/11/2020
Date of pronouncement	12/11/2020

**ORDER**

**PER PAWAN SINGH, JUDICIAL MEMEBR:**

1. This appeal by revenue is directed against the order of Id. Commissioner of Income Tax (Appeals), Valsad [in short “CIT(A)”] dated 30.03.2017, which arises from assessment order passed under section 143(3) read with section 147 Income tax Act dated 20.03.2015 for assessment year 2007-08.
2. The revenue has raised the following grounds of appeal:-
  - i) On the facts and in the circumstance of the case and in law, the Ld. CIT(A) erred in allowing the claim of deduction U/s 80IB of the I. T, Act, of Rs.3,11,44,076/- to the assessee.

- ii) On the facts and in the circumstance of the case and in law the Ld. CIT(A) erred in following the decision of tribunal only, even though in A.Y.2007-08 the Id. CIT(A) had confirmed the disallowance and which has been ignored and not mentioned /discussed in present order under consideration.
- iii) It is therefore, prayed that the order of the CIT(A), be set-aside and that the order of the Assessing Officer be restored.
- iv) The appellant craves to add, modify or alter any grounds during the course of appeal proceedings.”

**3.** Brief facts of the case are that the assessee-company is engaged in the business of manufacturing of electric control panels, situated in a backward area of Dadra & Nagar Haveli. The assessee while filing return of income under section 139 for Assessment Year (AY) 2008-09 claimed deduction under section 80IB. Subsequently the claim of deduction under section 80IB was accepted, the Assessing Officer reopened the assessment order under section 147 by issuing notice under section 148 dated 04.10.2013. The assessment was reopened on the ground that similar claim of deduction under section 80IB was denied to the assessee in AY. 2007-08. In response to notice under section 148, the assessee filed its return of income declaring 'Nil' income. In the return of income, the assessee claimed deduction under section 80IB. The Assessing Officer after serving the statutory notice under section 142(1) and 143(2) proceeded for reassessment. The Assessing Officer disallowed deduction under section 80IB of Rs.3.11 crore in the assessment order passed under section 143(3)

read with section 147 dated 20.03.2015. The deduction under section 80IB was disallowing as the ground that similar deduction was claimed in AY. 2007-08. On appeal before the ld. CIT(A) the action of Assessing Officer was reversed, thereby allowing deduction under section 80IB. The ld. CIT(A) allowed relief to the assessee by following decision of Tribunal in assessee's case for AY.2007-08 in ITA No.1667/AHD/2014 dated 02.09.2015. Aggrieved by the order of ld. CIT(A), the revenue has filed for present appeal before us.

4. We have heard the submissions of ld. Departmental Representative (DR) for the revenue and the ld. Authorized Representative (AR) of the assessee and gone through the order of authorities below. At the outset, the ld. AR of the assessee submits that grounds of appeal raised by revenue is covered in favour of assessee by the decision of Tribunal in assessee's own case for AY.2007-08 dated 02.09.2015. The ld. AR further submits that the ld. CIT(A) while granting relief to the assessee followed the decision of Tribunal dated 02.09.2015. The revenue challenged the decision of Tribunal before the High Court, however, the same was dismissed due to low tax effect *vide* order dated 27.02.2019 in ITA No. 1525 of 2016. The ld. AR submits that the Tribunal while passing the order in AY.2007-08 accepted the

contention of the assessee that manufacturing was started from March, 2004.

- 5.** On the other hand, the ld. CIT(DR) for the revenue fairly accepted that the ld. CIT(A) followed the order for AY. 2007-08 which has been reversed by Tribunal in the order dated 02.09.2015. The ld. DR for revenue submits that he supports the order of Assessing Officer.
- 6.** We have considered the submission of both the parties and gone through the order of lower authorities and the order of Co-ordinate Bench of Tribunal for AY.2007-08 in ITA No. 1667/AHD/2015 dated 02.09.2015. We have seen that the Assessing Officer reopened the case for assessee for the year under consideration on the ground that similar claim of deduction under section 80IB was disallowed in AY.2007-08. The Assessing Officer in reassessment order dated 20.03.2015 disallowed deduction under section 80IB of Rs.3.11 crore. The ld. CIT(A) allowed relief to the assessee by following the order of Tribunal dated 02.09.2015 for AY.2007-08 in ITA No. 1667/AHD/2014.
- 7.** Considering the fact that on identical ground of appeal on similar set of fact the assessee was allowed relief by Co-ordinate Bench of Tribunal. Respectfully following the same we do not find any merit in the ground of appeal raised by revenue. No contrary fact or law is

brought to our notice to take other view. Therefore, we affirm the order of ld. CIT(A).

**8.** In the result, appeal of the assessee is allowed.

Order pronounced on 12/11/2020 at the time of hearing of appeal.

**Sd/-**  
**(DR. ARJUN LAL SAINI)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(PAWAN SINGH)**  
**JUDICIAL MEMBER**

Surat, Dated: 12/11/2020  
Samanta, PS

- Copy to:
1. Appellant
  2. Respondent
  3. CIT(A)
  4. Pr. CIT
  5. DR

**// True Copy //**

By order

Assistant Registrar/Sr. PS/PS  
ITAT, Surat