

IN THE INCOME TAX APPELLATE TRIBUNAL "A"
(Virtual Court Hearing), BENCH KOLKATA

Before Sri J. Sudhakar Reddy, Accountant Member & Sri Sanjay Garg, Judicial Member

I.T.A. No.2550/KOL/2019

Assessment Year: 2010-11

ACIT, Circle-6(2), Kolkata.....Appellant

M/s West Bengal Infrastructure Development Corporation Ltd.....Respondent
[PAN :AAACW3073C]

Appearances by:

Shri Dhrubojyoti Roy, JCIT, appeared on behalf of the Appellant.

Shri Sanjay Bhattacharya, FCA, appeared on behalf of the Respondent.

Date of concluding the hearing : December 30, 2020

Date of pronouncing the order : January 22, 2021

ORDER

Per J. Sudhakar Reddy :-

This appeal by the revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals)-2, Kolkata (hereinafter the 'Id. CIT(A)'), dated 04.09.2019 passed u/s 250 of the Income Tax Act, 1961 (the 'Act') for the assessment year 2010-11.

2. There is a delay of 09 days in filing of the appeal. We have perused the petition for condonation of delay. We are convinced that the Revenue is prevented by sufficient cause by filing the appeal in time. Hence we condone the delay and admit the appeal.

3. After hearing rival contentions, we find that the Id. CIT(A) in the last paragraph of his order has stated as follows:

"The appellant further submits that only for this assessment year, viz., 2010-11 and the following assessment year 2011-12, the appellant was denied of deduction u/s 80IA. For all the other assessment years, viz., assessment years 2003-04 to 2009-10 and for the assessment year 2012-13, the appellant had been allowed deduction u/s 80IA. A copy of the assessment order dated 31/03/2015 for the assessment year 2012-13 is enclosed for ready reference. It may kindly be noted that the then Assessing Officer had made detailed discussions as regards the appellant's claim for u/s 80-IA and only after considering all the aspects he allowed deduction u/s 80IA for the assessment year 2012-13.

Keeping in view of the facts as mentioned above, the A.O is directed to allow the deduction u/s 80IA as per unit wise as allowed in previous years and subsequent years. The appellant shall furnish before the A.O the details in the matter. The A.O is also directed to verify the same and accordingly re-compute the deduction and disallowance. The A.O shall allow the appellant an opportunity of hearing before passing any order in this regard. This ground is therefore allowed for statistical purposes.”

3.1 The coordinate bench of the ITAT in the assessee's own case for the assessment year 2011-12 in ITA No.298/Kol/2016 order dated 26.04.2018 held that the assessee is eligible for deduction u/s 80IA of the Act. The order of the Id. CIT(A) is in line with the order of the ITAT on this issue on the same facts in the assessee's own case. Hence we find no infirmity in the order of the Id. CIT(A). We uphold the same and dismiss the appeal of the revenue.

4. In the result, the appeal of the revenue is dismissed.

Kolkata, the 22nd January, 2021.

Sd/-
[Sanjay Garg]
Judicial Member

Sd/-
[J. Sudhakar Reddy]
Accountant Member

Dated : 22.01.2021
RS

Copy of the order forwarded to:

1. ACIT, Circle-6(2), Kolkata

2. M/s West Bengal Infrastructure Development Corporation Ltd., DJ-10, Sector-II, Salt Lake City, Kolkata.

3. CIT(A)-

4. CIT- ,

5. CIT(DR),

True copy

By order

Assistant Registrar , Kolkata Benches