आयकर अपीलीय अधिकरण ,' ए' न्यायपीठ, चेन्नई

**IN THE INCOME TAX APPELLATE TRIBUNAL**
**"A" BENCH, CHENNAI**

श्री धुव्वुरु आर. एल रेड्डी**,** न्यायिक सदस्य एवं**,** श्री एस जयरामन, लेखा सदस्य समक्

**BEFORE SHRI DUVVURU RL REDDY, JUDICIAL MEMBER AND**
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

**आयकर अपील सं/.I.T.A. No. 722/Chny/2019**

**निर्धारण वर्ष/Assessment Year : 2010-11**

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| The Income Tax Officer,<br>Non Corporate Ward -10(1),<br>Room No. 619, 6th Floor,<br>Wanaparthy Block, 121 M.G. Road,<br>Chennai – 600 034. | Vs. | M/s. Anjli Foundations,<br>No. 25, Barnaby Road,<br>Kilpauk, Chennai – 600 010.<br>**[PAN: AANFA 8459L]** |
| **(अपीलार्थी/Appellant)** | | **(प्रत्यर्थी/Respondent)** |

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| अपीलार्थी की ओर से/Appellant by | **:** | Shri. G. Chandrababu. Sr. AR |
| प्रत्यर्थी की ओर से/Respondent by | **:** | Shri. S. Sridhar, Advocate |

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| सुनवाईकीतारीख/Date of Hearing | : | 24.11.2020 |
| घोषणाकीतारीख/Date of Pronouncement | : | 28.01.2021 |

**आदेश/ O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The Revenue filed this appeal against the order of the Commissioner of Income Tax (Appeals)- 12, Chennai, in ITA No. 274/CIT(A)-12/2013-14 dated 28.12.2018 for assessment year 2010-11.

2. The Revenue filed this appeal belatedly by one day. It was pleaded that the relevant assessment records and other documents which were in transit from the higher authorities were received only on 18.03.2019 and the appeal was filed on the next day which caused one day delay which is due to the circumstances beyond the control and hence pleaed to condone the delay.

3. We heard the rival parties and condone the delay.

4. M/s. Anjli Foundations, the assessee , a firm formed on 26.07.2005, purchased a vacant land measuring 1 acre and four cents on 28.07.2005. As the owners of the land, the firm entered into a joint development agreement with M/s. Narendra Properties Ltd., the developer, on 16.08.2005. By virtue of the agreement, the assessee- owner had transferred/assigned 50% of the land holding to the developer, M/s. Narendra Properties Ltd., who in turn made an investment by way of constructing all the flats and both of them held 50% of rights in all the aspects of flat promotion in terms of built-up area, undivided share of land and open terrace area etc. The assessee claimed 100% deduction u/s. 80IB(10) ie on its entire net profit. The AO examined the assessee's claim and held , inter alia, that the assessee firm is neither a builder nor a developer in order to claim the deduction u/s. 80IB(10) for the reasons , inter alia, that the assessee had not independently developed/completed the project. Since, the assessee transferred/assigned 50% of the property to the developer, the assessee

owned only 25 cents or half acre as against one acre as per the condition laid down in section 80IB(10), the assessee's P &L a/c shown that on the gross sale value of Rs. 4,07,53,750/-, only bank charges of Rs. 1,625/- was debited. Since, no other expenses were incurred towards construction of flats as per the agreement , the assessee firm is neither a builder nor a developer for claiming the deduction u/s. 80IB(10) and accordingly disallowed the assessee's claim u/s. 80IB(10). Aggrieved, the assessee filed an appeal before the CIT(A). The Ld. CIT(A) held , inter alia, that the Hon'ble Madras High Court in the case of CIT vs Sanghvi & Doshi Enterprises 255 CTR 156 has held that ownership of the land is not a criteria to decide the status of developer to claim the deduction u/s. 80IB(10), this decision supports the view that both developer and land owner can claim benefit of deduction u/s 80IB(10) in respect of their shares, the deduction is available for the project and not for the individual assessee and accordingly allowed the appeal. Aggrieved against that order, the Revenue filed this appeal.

5. The case was heard through video conferencing. The Ld. DR submitted that the Ld. CIT(A) failed to appreciate the fact that the assessee is merely a land owner and it has not developed and built housing projects approved by the local authority , thus the primary condition for claiming the deduction u/s. 80IB(10) has not been fulfilled. The Ld. CIT(A) without properly appreciating the facts of the assessee's case which is merely a land owner vis-a-vis M/s.

Sanghvi & Doshi Enterprises, which is clearly a developer , has wrongly allowed the appeal and hence pleaded to restore the order of the Ld. A O . Per contra, the Ld. AR supported and relied on the order of the Ld. CIT(A).

6. We heard the rival submissions. The main issue in this case is whether the assessee is eligible for the deduction claimed u/s. 80-IB(10) of the Act. The essence of sub –section (10) of section 80-IB requires involvement of the undertaking in developing and building housing projects approved by the local authority subject to certain conditions. In this regard, let us examine the issue on the basis of case laws relied on by the assessee before the Ld. CIT(A) as under :

6.1 In the case of CIT vs Radhe Developers (and connected appeals) reported in 341 ITR 403 (Guj) , a decision with which the Jurisdictional High Court was in respectful agreement with the law declared by it, the essential facts are that the assessees had entered into development agreements with land owners, under these agreements the assessees agreed to develop the land belonging to the land owner on certain terms and conditions. On the same day, the land owners entered into agreements to sell the land in acquisition to the assessees. The assessees were described as purchasers and the land owners were described as the sellers, the profit and loss from the project was to be the assessees. In some cases, the assessees were to

receive fixed remuneration for the development. The A O rejected the assessees' claim for deduction u/s. 80-IB(10) on the ground that the assessees were not the owners of the land, that approval by the local authority and permission to develop the project and commence the construction were not in the name of assessees and that the assessees had merely acted as agents or contractors for construction of residential houses. The Tribunal was of the opinion that for deduction under Section 80IB (10), it is not necessary that the assessee must be the owner of the land. Even otherwise, looking to the provisions contained in Section 2(47) of the Act, read with Section 53A of the Transfer of Property Act, by virtue of the development agreement and the agreement to sell, the assessee had, for the purpose of Income Tax, become the owner of the land. The Tribunal, accordingly, allowed the assessee's appeal directing the Assessing Officer to grant deduction under Section 80IB(10). On Revenue's appeal, the Hon'ble Gujarat High Court has noted the relevant terms and conditions of the development agreements between the assessees and the land owners etc, the relevant portion is extracted as under:

> *"36. We have noted at some length, the relevant terms and conditions of the development agreements between the assessees and the land owners in case of Radhe Developers. We also noted the terms of the agreement of sale entered into between the parties. Such conditions would immediately reveal that the owner of the land had received part of sale consideration. In lieu thereof he had granted development permission to the assessee. He had also parted with the possession of the land. The development of the land was to be done entirely by the assessee by constructing residential units thereon as per the plans approved by the local*

*authority. It was specified that the assessee would bring in technical knowledge and skill required for execution of such project. The assessee had to pay the fees to the Architects and Engineers. Additionally, assessee was also authorized to appoint any other Architect or Engineer, legal adviser and other professionals. He would appoint Sub-contractor or labour contractor for execution of the work. The assessee was authorized to admit the persons willing to join the scheme. The assessee was authorised to receive the contributions and other deposits and also raise demands from the members for dues and execute such demands through legal procedure. In case, for some reason, the member already admitted is deleted, the assessee would have the full right to include new member in place of outgoing member. He had to make necessary financial arrangements for which purpose he could raise funds from the financial institutions, banks etc. The land owners agreed to give necessary signatures, agreements, and even power of attorney to facilitate the work of the developer. In short, the assessee had undertaken the entire task of development, construction and sale of the housing units to be located on the land belonging to the original land owners. It was also agreed between the parties that the assessee would be entitled to use the the full FSI as per the existing rules and regulations. However, in future, rules be amended and additional FSI be available, the assessee would have the full right to use the same also. The sale proceeds of the units allotted by the assessee in favour of the members enrolled would be appropriated towards the land price. Eventually after paying off the land owner and the erstwhile proposed purchasers, the surplus amount would remain with the assessee. Such terms and conditions under which the assessee undertook the development project and took over the possession of the land from the original owner, leaves little doubt in our mind that the assessee had total and complete control over the land in question. The assessee could put the land to use as agreed between the parties. The assessee had full authority and also responsibility to develop the housing project by not only putting up the construction but by carrying out various other activities including enrolling members, accepting members, carrying out modifications engaging professional agencies and so on. Most significantly, the risk element was entirely that of the assessee. The land owner agreed to accept only a fixed price for the land in question. The assessee agreed to pay off the land owner first before appropriating any part of the sale consideration of the housing units for his benefit. In short, assessee took the full risk of executing the housing project and thereby making profit or loss as the case may be. The assessee invested its own funds in the cost of construction and engagement of*

*several agencies. Land owner would receive a fix predetermined amount towards the price of land and was thus insulated against any risk."*

The Hon'ble High Court held that it can be seen from the terms and conditions that the assessee had taken full responsibilities for execution of the development projects. Under the agreements, the assessee had full authority to develop the land as per his discretion. The assessee could engage professional help for designing and architectural work. Assessee would enroll members and collect charges. Profit or loss which may result from execution of the project belonged entirely to the assessee. It can thus be seen that the assessee had developed the housing project. The fact that the assessee may not have owned the land would be of no consequence.

6.2 The next case law relied by the assessee was CIT , Central Circle vs Shravanee Constructions (2012) 209 Taxman 06 (Kar) in which the essential facts are that the assessee, Shravanee Constructions , purchased agricultural land for a certain amount in a village of Bangalore City. The sale deed was not registered. A memorandum of understanding was entered with the land owner and the assessee took possession of the land. Later on, a joint development agreement was entered into by the assessee as 'consenting witness' with (i) the land owner as 'owner'; and (ii) M/s Purvankara Projects Ltd as 'promoter', to develop a residential apartment on the above land. As per the agreement, the promoter was to pay a certain consideration and to deliver 22 percent of the super built area to the assessee. As a consequence of the agreement, the

assessee got the land converted into non-agricultural land and got the work commencement from the Municipal Corporation. Out of the total 211 flats that were to be constructed as per the projects, 40 flats in different blocks were allotted to the assessee. The assessee sold some of the flats and claimed deduction u/s. 80IB(10) on profits derived from sale of the flats. The Revenue denied the deduction u/s. 80-IB(10) to the assessee for the reason that the housing project was carried out by M/s. Purvankara Projects Ltd., and the assessee has not developed and built the housing project on its own. The Commissioner of Income Tax (Appeals) held that the assessee is not entitled for deduction. The Tribunal held that the assessee not only obtained the permission/sanction for the construction but also has done the work of making the land useful for the apartment construction, providing roads, supervising the construction activity along with Purvankara Projects Ltd. Therefore, the assessee is an integral part of the development and construction activities. The assessee is not merely the land owner who had agreed to part with the land. Normally, once the land is transferred to the developer, the developer does the entire activity, whereas in the instant case, the assessee as mentioned above , has also done additional activities, which are integral parts of developling the project. Therefore, the Tribunal held that the assessee is entitled to the benefit of tax under the aforesaid provisions. The Revenue appealed before the Hon'ble High Court and the relevant portion of the judgment is extracted as under:

> *" 7. As stated earlier, it is not merely building housing project, which attracts this provision. It is developing and building housing project, which attracts the provision. In the order passed by the Commissioner of Income Tax (Appeals), the*

*development and construction activities undertaken by the assessee are listed. They are :*

*(i) Obtaining khatha from municipality;*

*(ii) Obtaining plan sanction for construction of apartment on the said property by the local authority;*

*(iii) making the land usable for the purpose of apartment construction by providing proper road and to give an approach to the site;*

*(iv) jointly supervising the construction of the apartments buildings;*

*(v) marking the apartments falling to the share of the assessee;*

*(vi) also undertaking the levelling the road and removal of rock surface in the said land and made it usable for the purpose of construction of the apartment complexes.*

*8. In terms of the agreement, which are not in dispute, the assessee not only undertook the aforesaid development activities on the land in question, but in fact, he entered into an agreement of sale with the owners of the land, paid the entire consideration but he did not take a registered sale deed in his name. On the contrary, the procedure adopted is he in turn entered into a joint development agreement with the builder and the owner of the land was made a party to the said proceedings. Thus, the assessee contributed the land, undertook the aforesaid developmental activities in the said land and thus, complied with all other conditions, which have to be fulfilled before claiming benefit under section 80IB(10) of the Act. The builder has invested the money in the construction. It is after completion of the building in terms of the agreement, the assessee was given 22% share of the building area. It is after sale of the built area, in terms of section 80IB(10), the assessee is claiming deduction. As is clear from the joint development agreement, the undertaking of developing and building housing project was jointly undertaken by the assessee and the builder. Therefore, in respect of the residential units numbering 211 in all, the persons who undertook this undertaking are entitled to the benefit of section 80IB(10) of the Act in proportion to the share to which they are entitled to in the built up area.*

*9. In that view of the matter, the contention of the revenue that the assessee did not undertake any developmental or building activity and therefore, he cannot individually claim the benefit has no substance. That is not the requirement of law. Keeping in mind, the object with which this provision is introduced when all persons who have made investments in this housing project which is for the benefit of middle and lower class people and, when they have complied with all the conditions prescribed under the aforesaid provision, both of them are entitled to hundred percent benefit of tax deduction as provided under the said provision. .....”*

6.3 The third case law relied on by the assessee is the Jurisdictional High Court’s decision in the case of CIT, Business ward XV(3) vs Sanghvi and Doshi Enterprise, 214 Taxman 463, in which the essential facts are that the assessee, Sanghvi and Doshi Enterprise, as a builder entered into an agreement with

owner of the property, 'Hotel Mullai Pvt Ltd, (H), on 28.04.2003 for joint development of a property. The terms of agreement stated that the assessee had agreed to build an extent of 1,91,990 sq.ft. super built-up area on the said property. The owner of the property would be paid a sum of Rs. 600 per sq.ft. worked out on the super built-up area as towards the sale of proportionate undivided share of land transferred to the buyer and the aggregate amount payable to the owner of the property would be Rs. 11,51,94,000/-. Clause 4 of the agreement stated that the assessee, as a builder, would collect the cost of the undivided share of the land and pay the same to the owner. The assessee had subsequently, sub-contracted the work to one 'M/s G K Shetty Builders Pvt Ltd ' by entering into an agreement on 1.10.2003 for carrying out actual construction work. The assessee appeared before the Local Authority, viz., the Corporation of Chennai and had obtained the planning permit from the local body also and completed its construction on ground plus 12 floors on 05.03.2006 and claimed deduction u/s. 80IB(10). The Assessing Officer viewed that the assessee had acted only as a builder for 'H' and section 80IB(10) allows deduction only in respect of developing and building housing projects and not developing or building. Since the assessee had only acted as a mere executor of the project and was not the owner of the property, held that the question of the assessee being considered for grant of deduction did not arise. The tribunal pointed out that the ownership of the land was not a criteria to decide the status of the developer to claim the deduction . The provisions emphasised about the investment risk, which could be taken either by the owner or the builder or

jointly by both. The tribunal further pointed out to the argument of the Revenue that as the owner was paid based on the built-up area, it was only the owner, who was the developer. Rejecting such a reasoning by the Revenue, the tribunal pointed out that all that the owner was entitled to on the terms of the agreement between the parties was for the undivided share of the land measured in terms of the built-up area and he had no interest in the cost of construction, which the builder alone had to bear. In the circumstances, the consideration that was payable to the owner in respect of the sale of undivided share was with reference to the super built-up area. Irrespective of whether all the flats are booked or not, the owner would receive the cost of the land. Thus, on a reading of the various clauses in the agreement, the tribunal held that the fact that the assessee was not the owner would not disentitle the assessee from claiming relief under section 80IB(10) of the Income Tax Act. It further pointed out that the builder on its part had invested on materials and labour as and when the construction progressed and the recoupment of the investment was uncertain. Thus, irrespective of whether all the flats were booked or not, the builder would have to construct the entire building and even if there was a booking for a flat in the fourth floor and the third floor remained unbooked, the assessee nevertheless would have to go ahead with the construction of the third floor and hand over the possession of the fourth floor to the person, who had paid for the undivided share in the land. In this, the tribunal pointed out that the risk of the assessee was multifold in contrast to the owner, who had no risk involved at all. After perusing the agreement, the tribunal held that the

assessee had the responsibility to develop and construct the housing project and the owner of the land is nowhere in the picture. Thus, the assessee was entitled to the relief under section 80IB of the Income Tax Act and the absence of ownership would not disentitle the assessee , as a developer, from claiming relief under section 80IB(10) of the Income Tax Act. The assessee had no doubt sub-contracted the work to other person. The other person , extending the mere labour to put up the construction would not be entitled to any relief under section 80IB of the Income Tax Act. On the other hand, with all the risk attached in developing and executing the project, the assessee, being a developer and builder, qualified for deduction under section 80IB of the Income Tax Act. As far as the owner of the land is concerned, there was no risk involved and the interest was in the realisation of the potentialities by way of encashing the past investment made etc. The Revenue filed an appeal before the Hon'ble High Court. The relevant portion of the judgment of the Jurisdictional High Court is extracted as under:

> "*29. We had already seen the various clauses in the agreement between the assessee and the owner dated 28.4.2003. A reading of the various clauses therein clearly points out the role of the assessee, which is not just as that of a builder to put up construction as per the directions of the owner; on the other hand, as rightly pointed out by the Tribunal, the risk element that is involved in the project undertaken by the assessee is more than of a normal builder, undertaking mere construction. It is seen from the data furnished before the Assessing Officer that while flats in the 6th floor and 11th floor were sold even as early as 2003, flats in first floor with Nos.104 and 103 were sold in the year 2009. So too, some of the flats in second floor and third floor were sold in the year 2007, 2006 and 2005. The flat in 12th floor was sold on 15.10.2003 and in the 9th floor on 5.11.2003. The flats in the first floor with Nos.101 and 102 were sold on 17.6.2009. Apart from this, we find that there were still some flats left unsold.*
>
> *30. In the background of these facts, the risk factors, as projected by the assessee accepted by the Tribunal, needs to be seen. Under Clause 4 of the agreement, the assessee was to collect a sum of Rs.600/- per sq.ft. on super built-up area for the*

*sale of undivided share of land transferred to the buyer. The said clause also fixes the ceiling as to the consideration, which would be paid to the owner, namely, at Rs.11,51,94,000/-. The clause in the agreement further pointed out that the builder has to enter into a builder agreement with the proposed purchaser and it is open to the builder to fix such rate per square foot for construction of the area as it deems fit, over which the owner has no claim at all. The builder has to pay the specified cost of the land on the undivided share of sale in favour of the purchaser to the owner, pro-rata to the built-up area. A reading of the agreement of sale with the purchasers further points out that the builder's agreement was entered on the very same day with the assessee. Thus, seen in the background of the data available as regards the date of sale, the clause in the agreement between the owner of the land and the assessee and the sale agreement with the prospective purchasers, it is evident that what the assessee had undertaken is not a mere construction, but developing and constructing of a project, which qualifies for a deduction under Section 80IB of the Income Tax Act. As rightly pointed out by learned Senior Counsel appearing for the assessee, a bare reading of Section 80IB of the Income Tax Act shows that the deduction contemplated therein is oriented towards the project and not with reference to an assessee. It is no doubt true that the project has to be done by the assessee, but then, when the deduction is specific enough as regards the particular activity, we fail to see how one should assume any significance in the matter of considering a deduction.*

*31. As rightly pointed out by learned Senior Counsel appearing for the assessee, in the decision reported in (2012) 341 ITR 403 (Commissioner of Income-Tax V. Radhe Developers), the Gujarat High Court considered the question on ownership as a condition for grant of deduction under Section 80IB(10) in depth and accepted the case of an assessee similarly placed. It held that the provisions no where require that developers who are the owner of the land alone would be entitled for grant of deduction under Section 80IB(10). Going through the decision of the Gujarat High Court, we have no hesitation in holding that we are in respectful agreement with the law declared by the Gujarat High Court."*

7. From the above decisions, whether it is owners of the land (including an agreement holder as in the case of CIT , Central Circle vs Shravanee Constructions (2012) 209 Taxmann 06 (Kar)) or the Developers of the property, who held agreements in their favour and possessed the land, as in the cases of CIT vs Radhe Developers (and connected appeals) in 341 ITR 403 (Guj) and in the case of CIT, Business ward XV(3) vs Sanghvi and Doshi Enterprise, 214 ITR 463 (Mad), in order to claim the deduction under sub –

section (10) of section 80-IB each one of them shall have to be establish the primary condition that they had developed and built housing projects approved by the local authority.

8. The undisputed fact in this case is that the assessee is owner of the land. Therefore, for claiming the deduction u/s. 80IB(10), the assessee has to establish that it had undertaken developmental activities which include activities like undertaking the levelling the road and removal of rock surface in the said land and making the land usable for the purpose of construction of the apartment complexes, where the nature of land is agricultural getting the land converted into non-agricultural land, engaging professional help for designing and architectural work, obtaining the permission/sanction for the construction, providing roads, supervising the construction activity, enrolling members and collecting charges, sharing of responsibility and risk associated with developing and building housing projects approved by the local authority etc. The relevant portion of the order of the AO is extracted as under to indicate the salient features of the agreement and the conclusion drawn by the A O :

> *"The agreement is between M/s. Anjali Foundations, described as "Owners" and M/s. Narendra Properties Limited, a company represented by its Managing Director Mr. Narendra C Maher, described as "Developers".*
>
> *Whereas the Developers herein approached the owners herein with a proposal to undertake the construction of an Residential complex thereon"*
>
> *"Whereas the Owners assured the Developers that they would sell, transfer, convey and assign 50% undivided share of interest over the land comprised in Schedule*

*"A" in favor of the Developers or its nominee(s) in consideration of the developers constructing and delivering to the owners 50% of the super built up area of the building to be constructed on the schedule "A" property. - Page 2 of the Agreement.*

*The party of the first part shall allow the party of the second part to construct a multistoried residential complex at property/vacant lands situated in No. 15, Sholinganallur village, Saidapet Taluk, Chingaippattu MGR District more fully described in Schedule A hereunder, in consideration of the party of the first part retaining 50% of the salable area/ constructed area along with proportionate undivided interest in land with balance of undivided interest in land being available for the party of second part for conveyance to itself or its nominees with or without construction. - Para 31 Page 3of the agreement.*

*The open terrace of the entire project shall remain vested with both the parties in the same sharing proportion of the owners 50% and the Developers 50%. - Para 19/page 5 of the agreement.*

*The parties hereto mutually agree that in the event of any offer for sale of any built up area of the building the same shall be sold only jointly by the developers and owners in the ratio 50: 50 respectively without any separate demarcation of the built up area. - Para 20/page 5 of the Agreement. 4*

*That the party of the second part shall complete the construction in the schedule a mentioned property and the project known as NPL - Redmond square, and the construction area shall be a minimum of 66,000 sq. feet and as per CMDA rules. However the proportion of both constructed area and land will be in the ratio 50 % - 50% as between parties of the first part and the second part. They will be free to sell their respective constructed areas to their nominees and the party of the first part shall execute due and proper conveyance in favour in relation to the entitlement of the party of the second part. Para 26/page 6 of the Agreement.*

*From the above clauses, it becomes amply clear that the assessee, M/s. Anjali foundations had transferred/assigned 50% of the land holdings to the other company, M/s. Narendra Properties Limited who in turn had made investments by way of constructing all the flats for M/s. Narendra Properties and M/s. Anjali foundations. The constructed flats were sold in the ratio 50:50 by the above two entities. The above two entities hold 50% rights in all the aspects of flat promotion in terms of built-up area, Undivided share of land, open terrace area etc.*

*.....*

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*.....*

*Even otherwise a perusal of the assessee firm's profit and loss account show that, no expenses on account of construction of the project/flats were claimed by the assessee for the AY 2010-11. Only bank charges of Rs. 1,627.00 was debited on the gross sale value of Rs.4,07,53,750.00. For the AY 2009-10 also no expenses were claimed towards construction of the flats. The assessee firm only owned certain area, fifty percent of which was transferred to another entity, and the other entity had only constructed the flats. In the "Agreement for sale" document entered between the assessee and the buyers, the assessee firm is quoted as "Vendors", whereas the other entity is quoted as "Builders". All the above documents goes to prove that the assessee firm is not a builder or developer in*

*order to be eligible for claiming deduction u/s. 80IB(10), and has only owned certain area of land. "*

9. Thus, it is clear that the assessee is the owner of the land , as a owner of the land all that it was entitled to on the terms of the agreement between the parties was for the undivided share of the land measured in terms of the built-up area and it had no interest in the development or in the cost of construction, which the Developer alone had to bear. As is evidenced by its P&L account also, the assessee has not incurred any cost towards any developmental activity. It has not established either before the lower authorities or before us that it had undertaken developmental activities either as a Owner or as a Developer or Jointly . As a owner of the land , there was no risk to the assessee and its interest was in the realisation of the potentialities by way of encashing the past investment made etc. Therefore , the assessee has not made out a case that it is entitled for the deduction claimed u/s 80-IB(10) and hence the Revenue's appeal is allowed.

10. In the result, the Revenue's appeal is allowed.

Order pronounced on 28th January, 2021 at Chennai.

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| **Sd/-** | **Sd/-** |
| **(धुव्वुरुआर.एलरेड्डी)** | **(एसजयरामन)** |
| **(DUVVURU RL REDDY)** | **(S. JAYARAMAN)** |
| **न्यायिकसदस्य/JUDICIAL MEMBER** | **लेखासदस्य/Accountant Member** |

चेन्नई/Chennai,
दिनांक/Dated: 28th January, 2021
***JPV***

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

| | | |
|---|---|---|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकरआयुक्त) अपील(/CIT(A) |
| 4. आयकरआयुक्त/CIT | 5. विभागीयप्रतिनिधि/DR | 6. गार्डफाईल/GF |