

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B" : HYDERABAD  
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

**I.T.A. Nos. 2272 & 2273/HYD/2018**  
Assessment Years: 2013-14 & 2014-15

ITA No.	A.Y.	Appellant	Respondent
2272/Hyd/18	2013-14	DCIT, Circle-2(1), HYDERABAD	M/s.Janapriya Properties Pvt. Ltd., HYDERABAD [PAN: AABCJ9001E]
2273/Hyd/18	2014-15		M/s.Janapriya Engineers Syndicate Pvt. Ltd., HYDERABAD [PAN: AAACE4560A]

For Revenue : Shri Rohit Mujumdar, DR  
For Assessee : Shri A.Srinivas, AR

Date of Hearing : 13-05-2021  
Date of Pronouncement : 25-06-2021

**ORDER**

**PER S.S.GODARA, J.M. :**

These two Revenue's appeals for AYs.2013-14 & 2014-15 arise from the CIT(A)-11, Hyderabad's order dated 30-08-2018 passed in case No.02 & 440/2016-17 & 2017-18/2018-19/CIT(A)-11 Hyd/18-19, involving proceedings u/s.143(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case files perused.

2. The Revenue has proposed the following substantive grounds in the former AY.2013-14 appeal ITA No.2272/Hyd/2018:

*“1. Whether on the facts and circumstances of the case, the CIT(A) is correct in law in directing the assessing officer to allow the claim of the assessee made under section 80IA(4)(iv) of the Income Tax Act 1961 when the assessee is not entitled for the said claim.*

*2. Whether on the facts and circumstances of the case, the CIT(A) is correct in law in allowing deduction under section 80IA(4)(iv) of the I.T.Act 1961 when the assessee has violated the condition imposed that no single unit shall occupy more than 50% of the allocable area of an industrial park?*

*3. Whether on the facts and circumstances of the case, the CIT(A) is correct in law in deleting the addition of profit from JV to MAT income ignoring the decision of the jurisdictional tribunal in the case of M/s.B.Seenaiah & Co. projects Ltd. Vide ITA No.433/HYD/2009?”*

3. We notice at the outset with the able assistance of both the parties that the CIT(A) has gone by his detailed discussion in AY.2008-09 deleting the very nature of Section 80-IA(4) deduction disallowance for the sole reason that this taxpayer had let out more than 50% of the area to a single tenant. Both the learned representative informed us very fairly that this co-ordinate bench’s decision in Revenue’s appeal No.1746/Hyd/2016, AY.2011-12 decided on 07-04-2017 has taken note of the CBDT Circular dt.13-11-2006 as well as a catena of other co-ordinate benches’ orders thereby declining the department’s very grievance. We make it clear that there is no distinction in the above extracted pleadings on facts in all these assessment years *qua* the assessee’s eligible undertaking. We thus adopt judicial consistency to affirm the CIT(A)’s action deleting the impugned Section 80-IA for deduction disallowance of Rs.2,47,72,990/-. The Revenue’s

sole substantive grievance as well as the main appeal ITA No.2272/Hyd/2018 fail therefore.

4. Coming to Revenue's latter appeal ITA No.2273/Hyd/2018 AY.2014-15 we find that the CIT(A)'s order has reversed the Assessing Officer's action making Section 14A r.w. Rule 8D disallowance of Rs.2,21,32,573/- for the sole reason that the assessee had not derived any exempt income in the relevant previous year. Case law:

- i. CIT Vs. Chettinad Logistics Pvt. Ltd., [80 taxmann.com 221] (Madras);
- ii. CIT Vs. Corrttech Energy Pvt. Ltd., [223 Taxman 130] (Guj);
- iii. Cheminvest Ltd., Vs. CIT (2015) [378 ITR 33] (Del)

hold that impugned disallowance provision applies only in relation to exempt income than having any independent exigibility. We thus affirm the CIT(A)'s conclusion. The Revenue fails in the instant latter appeal ITA No.2273/Hyd/2018 as well.

5. These two Revenue's appeals are dismissed in above terms.

*Order pronounced in the open court on 25<sup>th</sup> June, 2021*

Sd/-  
**(LAXMI PRASAD SAHU)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(S.S.GODARA)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 25-06-2021

Copy to :

1.DCIT, Circle-2(1), Hyderabad.

2.M/s.Janapriya Properties Pvt.Ltd., 8-2-120/86, Plot Nos.11 & 12, Keerthi and Pride Towers, Road No.2, Banjara Hills, Hyderabad.

3.M/s.Janapriya Engineers Syndicate Pvt. Ltd., 8-2-120/86, Plot Nos.11 & 12, Keerthi and Pride Towers, Road No.2, Banjara Hills, Hyderabad.

4.CIT(Appeals)-11, Hyderabad.

5.Pr.CIT-2, Hyderabad.

6.Pr.CIT(Central)-Hyderabad.

7.D.R. ITAT, Hyderabad.

8.Guard File.