

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCHES “A, PUNE

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

आयकर अपील सं. / ITA No.1090/PUN/2018
निर्धारण वर्ष / Assessment Year : 2012-13

ITO, Ward-3(5), Pune	Vs.	M/s. Satish Bora and Associates, 2, Rachna Avenue, Near Sagar Arcade, F.C. Road, Deccan Gymkhana, Pune 411 004 PAN : AATFS1942G
Appellant		Respondent

Assessee by
Revenue by

Shri Sunil Ganoo
Shri J.P. Chandraker

Date of hearing 01-12-2021
Date of pronouncement 02-12-2021

आदेश / ORDER

This appeal by the Revenue is directed against the order passed by the CIT(A)-3, Pune on 20-03-2018 in relation to the Assessment Year 2012-13.

2. The only issue projected through various grounds is against the granting of deduction u/s.80IB(10) of the Income-tax Act, 1961 (hereinafter also called ‘the Act’) on proportionate basis.

3. Succinctly, the factual matrix of the case is that the assessee filed its return claiming deduction u/s.80IB(10) amounting to Rs.6,70,53,561/- in respect of project called “Crystal Heights”, which was accepted, as such, in the

assessment completed u/s.143(3). Subsequently, the assessment was re-opened on the ground that the deduction was not permissible. The AO completed the assessment by withdrawing the amount of deduction at Rs.6.70 crore. The Id. CIT(A), relying on certain precedents, directed to grant proportionate deduction in respect of the profits derived from the sale of eligible units. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal.

4. We have heard both the sides and perused the relevant material on record. The only point is about the granting of deduction u/s.80IB(10) of the Act which was denied by the AO on the ground of incomplete construction of the project. On the contrary, the Id. CIT(A) directed to allow deduction on proportionate basis in respect of the units fulfilling the requisite conditions prescribed under the section. In our considered opinion, this issue is no more *res integra* in view of several judgements of Hon'ble jurisdictional High Court, including *Devashri Nirman LLB Vs. ACIT and another (2020) 429 ITR 597 (Bom)* holding that the entire deduction cannot be disallowed u/s.80IB(10) of the Act and the same may be

proportionately allowed in respect of the eligible units. Since the
ld. CIT(A) has granted the deduction in the light of such a view,
we echo the same.

5. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 02nd December,
2021

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

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

पुणे Pune; दिनांक Dated : 02nd December, 2021
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) /
The CIT (Appeals)-3, Pune
4. The PCIT-2, Pune
5. DR, ITAT, A Bench, 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	01-12-2021	Sr.PS
2.	Draft placed before author	01-12-2021	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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