

आयकर अपीलिय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
 AND
 SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.836/PUN/2018
 निर्धारण वर्ष / Assessment Year : 2015-16**

Deputy Commissioner of Income Tax,
 Circle – 14, Pune

.....अपीलार्थी / Appellant

बनाम / V/s.

Maharashtra State Warehousing Corporation,
 583/B, Market Yard,
 Gultekdi, Pune – 411037

PAN : AABCM3988M

.....प्रत्यर्थी / Respondent

Assessee by : Shri Sarvesh Khandelwal
 Revenue by : Shri Sardar Singh Meena

सुनवाई की तारीख / Date of Hearing : 29-06-2022
 घोषणा की तारीख / Date of Pronouncement : 04-07-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

This appeal by the Revenue against the order dated 01-03-2018 passed by the Commissioner of Income Tax (Appeals)-7, Pune ['CIT(A)'] for assessment year 2015-16.

2. The Revenue raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in holding the assessee is eligible for deduction u/s. 80IA(4) of the Act on account of inland Container Depot (ICD) in the facts and circumstances of the case.

3. At the outset, we note that this Tribunal on similar issue basing on identical facts decided in favour of the assessee from A.Ys. 2008-09 and 2009-10 onwards. We find the latest being A.Y. 2014-15 at Page No. 9 of the paper book. It is noted that the Co-ordinate Bench while deciding the issue in favour of the assessee held the facts and circumstances are similar to that of A.Y. 2013-14 in ITA No. 649/PUN/2012 wherein, we note that the Co-ordinate Bench therein for A.Y. 2013-14 in turn relying on the orders for A.Ys. 2008-09 and 2009-10 held the assessee is eligible for deduction u/s. 80IA(4) of the Act. The relevant portions at Para Nos. 9 and 10 in ITA No. 2871/PUN/2017 for A.Y. 2014-15 are reproduced here-in-below for ready reference :

“9. We further find that Ld.CIT(A) has followed the decision of Coordinate Bench of the Tribunal in assessee’s own case for the assessment year 2013-14 in ITA No.649/PUN/2012 order dt.28.02.2019, wherein it has given finding as under :

“6. We have perused the case records and have given thoughtful consideration to the judicial pronouncements placed before us. We observe that Ld. CIT(Appeals) in his detailed order has provided relief to the assessee on the issue of deduction u/s.80IA(4) of the Act on the basis of decision by the Pune Bench of the Tribunal in assessee’s own case for assessment years 2008- 09 and 2009-10 wherein the Tribunal has ruled in favour of the assessee allowing the claim of deduction u/s.80IA(4) of the Act. We further observe that the Ld. AR at the time of hearing has placed before us the copy of order passed by the Pune Bench of the Tribunal in ITA No.1014/PUN/2015 for the assessment year 2011-12 again in assessee’s own case where the Tribunal has followed its own order for assessment year 2008-09 and 2009- 10 in the case of assessee and provided relief to the assessee. Therefore, relief granted by the Ld. CIT(Appeals) to the assessee on the issue are not only covered by the assessee’s own case for assessment years 2008-09 and 2009-10 as well but also for assessment year 2011-12. We do not find any infirmity with the findings of the Ld. CIT(Appeals) and relief provided to the assessee herein is sustained.”

10. Before us, no material has been placed on record by the Revenue to demonstrate that the decisions of Tribunal that were followed by the Ld.CIT(A) while dismissing the appeals of Revenue have been set aside /stayed or overruled by the higher Judicial Authorities. Before us, Revenue has not placed any material on record to point out any distinguishing feature in the facts of the case for the year under consideration and that of earlier years nor has placed any contrary binding decision in its support. In view of the aforesaid facts, we find no reason to interfere with the order of Ld.CIT(A) and hence, the relief provided to the assessee herein is sustained. Thus, the grounds of Revenue are dismissed.”

4. The ld. DR did not bring on any order contrary to the view rendered by the Co-ordinate Benches in assessee's own case. We note that the CIT(A) by following assessee's own case for A.Y. 2010-11 passed by the Pune Benches of Tribunal held that the assessee is entitled to claim deduction u/s. 80IA(4) of the Act vide Para No. 5.3 of the impugned order, therefore, we find no infirmity in the order of CIT(A) and it is justified. Thus, we hold that the assessee is entitled to get deduction u/s. 80IA(4) of the Act.

5. In the result, the appeal of Revenue is dismissed.

Order pronounced in the open court on 04th July, 2022.

Sd/-
(Inturi Rama Rao)
ACCOUNTANT MEMBER

Sd/-
(S.S. Viswanethra Ravi)
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 04th July, 2022.

रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-7, Pune
4. The Pr. CIT-6, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune