



IN THE INCOME TAX APPELLATE TRIBUNAL 'A' BENCH, PUNE

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JM
AND DR. DIPAK P. RIPOTE, AM**

ITA No. 669 and 670/PUN/2019
Assessment Year : 2014-15 & 2015-16

The Dy. CIT Central Circle 2(1) Pune :Appellant

Vs.

m/S. Namrata Developers
592 Raviwar Peth,
Talegaon Dabhade, Tal. Maval,
Pune-410 506
PAN: AABFN 1735 C Respondent

Appellant by : Shri V.L. Jain
Respondent by : Shri M.M. Chate
Date of Hearing : 30-08-2022
Date of Pronouncement : 01-09-2022

ORDER

PER PARTHA SARATHI CHAUDHURY, JM :

These appeals preferred by the Revenue emanates from consolidated order of the Id. CIT(A)-12, Pune dated 25-02-219 for A.Ys. 2014-15 and 2015-16 as per grounds of appeal on record.

2. The issue for adjudication is whether the Id. CIT(A) was justified in allowing deduction u/s 80IB(10) of the Income-tax Act, 1961 (hereinafter referred to as "the Act"). At the time hearing both the parties agree that the facts and circumstances and the issues involved in both these appeals are identical and similar and therefore, these cases were heard together and are disposed of by this consolidated order by taking lead case for A.Y. 2014-15 in ITA No. 669/PUN/2019.

3. The A.O has observed this issue at para 3.2 on page 2 and has given a finding whereby deduction u/s 80IB(10) of the Act was disallowed to the



assessee. The Id. CIT(A) on the other hand has observed that the issue stands covered in favour of the assessee by the order of the Pune Tribunal in assessee's own case for A.Y. 2011-12 to 2013-14 on identical facts wherein it was held that multiple projects can be completed on one acre of land. Following the decision of the Tribunal deduction u/s 80IB(10) of the Act was granted by the Id. CIT(A).

4. At the time of hearing, the Id. A.R of the assessee brought to our notice the decision in assessee's favour in assessee's own case in ITA No. 1974 to 1976/PUN/2016 for A.Y. 2011-12 to 2013-14, order dated 25-09-2018. In the said order, the Tribunal has held as follows:

10. We find that the issue is squarely covered by the order of Tribunal (supra) in assessee's own case, wherein in para 3 it was observed that the total area of plot was 6900 sq.mtrs. and after reducing 300 sq.mtrs. for project road, remaining area was 6600 sq.mtrs. The first approval of PMC authorities was given on 28.04.2005 and in the said approval, area of land was shown at 6600 sq.mtrs. The Tribunal further noted that 30 mtrs. wide DP road as well as 30 mtrs for HCMTR reservation was there in between the plot and because of which the plot was divided into two parts i.e. Plot No.I and Plot No.II in the area statement. The Tribunal held that the issue regarding two plots had arisen because of the mistake of Architect where the plot was only one, but only for the sake of convenience, numbering was shown as plot No.I and plot No.II by the Architect. The Tribunal after noting various other aspects held that reservation on account of DP road as well as HCMTR would not alter the fact that the said plot was one plot and mere division on account of reservation would not change the character of existing plot. The conditions stipulated in section 80IB(10) of the Act, of the project being one acre of plot, was held to be fulfilled and hence, the assessee was held entitled to claim of deduction under section 80IB(10) of the Act. Following the same parity of reasoning, we hold that the assessee for the year under consideration is also entitled to claim the aforesaid deduction under section 80IB(10) of the Act."

5. In the aforestated judgment in assessee's own case, the Tribunal has given a categorical finding that the conditions stipulated in section 80IB(10) for claiming deduction have been fulfilled by the assessee and necessary evidences have been furnished and therefore, for the year under consideration, the assessee was entitled to get deduction u/s 80IB(10) of the Act. The Id. D.R fairly conceded that the issue is covered in favour of the assessee.

6. Respectfully following the aforestated decision of Pune Tribunal on the same parity of reasoning and the same set of facts and circumstances, the



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A.Y. 2014-15 & 2015-16

claim of deduction u/s 80IB(10) of the Act which has been allowed to the assessee by the Id. CIT(A) following the Tribunal's order (supra) cannot be faulted with for any reason whatsoever. The relief provided to the assessee is sustained.

7. The appeal of the Revenue in ITA No. 669/PUN/2019 for A.Y. 2014-15 is dismissed.

8. Coming to the appeal of the Revenue in ITA No. 670/PUN/2019 for A.Y. 2014-15 the facts and circumstances are identical and similar to those in ITA No. 669/PUN/2019 for A.Y. 2014-15 except for the amount involved. Therefore, our decision in ITA No. 669/PUN/2019 for A.Y. 2014-15 shall apply mutatis mutandis to ITA No. 670/PUN/2019 for A.Y. 2015-16 and the relief provided to the assessee is sustained for this year as well.

9. In the combined result, both the **appeals of the Revenue are dismissed.**

Order pronounced in the open Court on this 01st September 2022.

Sd/-
(DR. DIPAK P. RIPOTE)
ACCOUNTANT MEMBER

sd/-
(PARTHA SARATHI CHAUDHURY)
JUDICIAL MEMBER

Pune; Dated, this 01st day of September 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT- Central, Pune .
4. The CIT(A)-12 Pune
5. The D.R. ITAT 'A' Bench Pune.
6. Guard File

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BY ORDER,

Sr. Private Secretary
ITAT, Pune



		Date	
1	Draft dictated on	30-08-2022	Sr.PS
2	Draft placed before author	01-09-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
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6	Kept for pronouncement on	01-09-2022	Sr.PS/PS
7	Date of uploading of order	01-09-2022	Sr.PS/PS
8	File sent to Bench Clerk	<u>01-09-2022</u>	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		