

**IN THE INCOME TAX APPELLATE TRIBUNAL "E" BENCH, MUMBAI**

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI PAVAN KUMAR GADALE, JM

**ITA No.2119/MUM/2022**

(Assessment Year: 2012-13)

**ITA No.2118/MUM/2022**

(Assessment Year: 2014-15)

**ITA No.2117/MUM/2022**

(Assessment Year: 2015-16)

Transworld Terminals Dadri  
Private Limited  
(Formerly Albatross Inland Ports  
Private Limited)  
802, Sai Samarth Commercial  
Prem CHS,  
Next to Shah Industrial Estate,  
Deonar Village Road,  
Govandi (East) ,  
Mumbai-400 088

**(Appellant)**

Vs.

Dy. CIT  
Circle 14(1)(1)  
Aaykar Bhavan,  
Maharshi Karve Road,  
Mumbai-400 020

**(Respondent)**

**PAN No. AAECA8052B**

**Assessee by** : Shri M. Subramanian, AR

**Revenue by** : Shri S.K. Jain, DR

**Date of hearing:**

19.10.2022

**Date of pronouncement :**

29.12.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. These are three appeals filed by the assessee Transworld Terminals Dadri Private Limited formerly known as Albatross Inland Ports Private Limited for A.Y. 2012-13,

2014-15 and 2015-16 against the appellate order passed by the National Faceless Appeal Centre, Delhi [the learned CIT (A)] dated 5<sup>th</sup> July, 2022 for all those years. The issue involved in these appeals is also identical. The parties also argued them together and therefore, all these three appeals are disposed of by this common order.

02. We first take up ITA No.2119/Mum/2022 for A.Y. 2012-13, where the assessee has raised the solitary ground of appeal stating that a sum of ₹18,97,000/- reported under the head 'other income' was held to be not eligible for deduction under Section 80IA of the Income-tax Act, 1961 (the Act).
03. The brief fact shows that assessee is a company engaged in the business of operating a Container Freight Station (CFS). It filed its return of income on 26<sup>th</sup> September, 2012 at a total income of ₹9,31,26,170/-. Assessee is eligible for deduction under Section 80IA of the Act. Assessee has shown 'other incomes' of rent received, interest on fixed deposits, interest on IT refund, balances written back and miscellaneous income totaling to ₹18,97,000/-. These are the income pertains to the Dadri Unit, which is eligible for deduction under Section 80IA of the Act. Assessee did not exclude the above income from the eligible profit derived from the industrial undertaking of Dadri unit while computing deduction under Section 80IA of the Act. The learned Assessing Officer raised a query on the above issue and ultimately held that above income is not derived from industrial undertaking and

therefore reduced the eligible profit for deduction under Section 80IA of the Act. Accordingly, he separately taxed the above sum. Consequently, the income of the assessee was assessed at ₹9,50,23,170/- against the return of income of ₹9,31,26,170/- by an assessment order passed under Section 143(3) of the Act dated 29<sup>th</sup> January, 2015.

04. Aggrieved by the assessment order assessee preferred an appeal before the National Faceless Appeal Centre, wherein the appeal of the assessee was dismissed. Therefore, the assessee is in appeal before us.
05. The learned Authorized Representative submitted that identical issue arose in case of the assessee for A.Y. 2009-10, wherein co-ordinate Bench in ITA No.4833/Mum/2012 passed an order on 01<sup>st</sup> October, 2018 holding that
  - a. The rent received by the assessee is directly related to the main business of the assessee, as assessee being a CFS providing space to facilitate customers and other associated on rent. Accordingly, rent was held to be income derived from eligible undertaking eligible for deduction under Section 80IA of the Act.
  - b. interest on fixed deposit, it was submitted that the fixed deposits are pledged with custom authorities for obtaining guarantee therefore, so earned by the assessee was also held to be eligible for deduction under Section 80IA of the Act.

- c. Sundry credit balances written back as well as miscellaneous income is also held to be arising from the industrial undertaking.
- d. With respect to the interest on income tax refund, it was submitted that same should also be net off against interest expenditure for the purpose of computing the profits.

Such decision of the co-ordinate Bench is also based on the decision of co-ordinate Bench in case of ITO vs. Hiranandani Builders. Accordingly, it was submitted that all the items of 'other income' are already decided by the co-ordinate Bench in assessee's own case in its favour for earlier years. Therefore, the issue is covered in favour of the assessee.

06. The learned Departmental Representative supported the orders of the lower authorities.
07. We have carefully considered the rival contentions and perused the orders of the lower authorities. We have also carefully considered the order of the co-ordinate Bench in assessee's own case for A.Y. 2009-10 to 2010-11 dated 1<sup>st</sup> October, 2018. During the year, the assessee has received rent of ₹11,23,000/-, interest on fixed deposits receipt of ₹6,01,000/-, interest on income tax refund of ₹25,000/- balances written back of ₹63,000/- and further miscellaneous income of ₹85,000/-. All these income have been considered by the co-ordinate Bench in assessee's own case as income eligible for deduction u/s 80 IA of The

Act. Therefore, respectfully following the decision of co-ordinate bench in assessee's own case, we direct the learned Assessing Officer to consider the interest on IT refund for set off against interest expenditure and to grant deduction under Section 80IA of the Act on all other income included under the head "other income". Accordingly, ground no.3 of the appeal of the assessee is allowed.

08. Ground no.2, is against the initiation of penalty proceedings, which is premature and therefore, same is dismissed. Accordingly, ITA No.2119/Mum/2022 for A.Y. 2012-13 is partly allowed.
09. ITA No.2118/Mum/2022 is for A.Y. 2014-15 involving similar ground of appeal.
010. Ground no.1, is with respect to the other income of ₹39,53,831/- not considered as eligible for deduction under Section 80IA of the Act by the lower authorities. The issue is decided in the appeal of the assessee for A.Y. 2012-13. With a similar direction ground no.1 of the appeal is partly allowed.
011. Ground no.2 is against the initiation of penalty proceedings, which is premature in nature and therefore, same is dismissed.
012. Accordingly, ITA No.2118/Mum/2022 for A.Y. 2014-15 is partly allowed.



013. ITA No.2117/Mum/2022 also involves identical ground of granting deduction under Section 80IA of the Act under the head other income of ₹1,02,09,636/-. The amounts involved in the other incomes are also of similar nature. Therefore, for the reasons given by us in the appeal of the assessee for A.Y. 2012-13, we allow this ground of appeal with similar directions. Accordingly, ground no.1 of the appeal of the assessee is allowed.

014. Ground no.2 of the appeal is against the initiation of penalty proceedings. It is premature and hence, same is dismissed.

015. Accordingly, all the three appeals filed by the assessee are partly allowed.

Order pronounced in the open court on 29.12.2022.

Sd/-  
(PAVAN KUMAR GADALE)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated:29.12.2022

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//



Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai