

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE,
SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.9210/Del/2019
(ASSESSMENT YEAR 2016-17)**

Celebi Delhi Cargo Terminal Management India Pvt. Ltd. Room No. CE-05, Import Building-2, International Cargo Terminal, IGI Airport New Delhi-110 037 PAN-AADCC 6885B	Vs.	ACIT Circle-5 (2), New Delhi
(Appellant)		(Respondent)

Assessee by	Sh. Ankit Agrawal, CA
Department by	Sh Vivek Kumar Upadhyay, Sr. DR
Date of Hearing	21/12/2023
Date of Pronouncement	12/01/2024

ORDER

PER M. BALAGANESH AM:

This appeal of the Assessee arises out of the order of the Learned Commissioner of Income Tax (Appeals)-2 New Delhi [hereinafter referred to as 'Ld. CIT(A)'] in Appeal No.10331/2018-19 dated 27/09/2019 against the order passed by Assistant Commissioner of Income Tax, Circle -5(2), New Delhi (hereinafter

referred to as the 'Ld. AO') u/s 143(3) of the Income Tax Act (hereinafter referred to as 'the Act') on 30/12/2018 for the Assessment Year 2016-17.

2. The assessee has raised the following grounds of appeal:-

"1. That in the circumstances and facts of the case and law, the Ld. CIT(A) has erred in holding that the assessee failed to place on record during the appeal proceedings such documentary evidence of substantive nature to justify that Delhi International Airport Limited is a statutory body for claiming deduction u/s 80IA of the Income Tax Act, 1961.

2. The appellant seeks permission to add, delete or modify all/any ground(s) of appeal at the time of hearing."

3. We have heard the rival submissions and perused the materials available on record. The assessee is engaged in the business of warehouse management at Indira Gandhi International Airport (IGIA), New Delhi as one stop services provider for customers which includes airlines, exporters, importers, domestic air cargo, perishable, pharma and express handling. The assessee submitted that, it was a joint venture between a Turkish Company M/s Celebi Hava Servisi and M/s Delhi International Airport Limited (DIAL) formed as a Special Purpose Vehicle Company for the up-gradation, operation and maintenance of the cargo terminal at Indira Gandhi International Airport (IGIA), New Delhi. The

assessee states that DIAL had entered into an Operation Management and Development Agreement (OMDA) with the Airport Authority of India (AAI) under which DIAL has been granted the exclusive right and authority during the term of OMDA (30 years w.e.f. 03/05/2006) to operate, maintain, develop, design, construct, upgrade, modernize, finance and manage the IGIA, New Delhi. It was submitted that consequent to the concession agreement between M/s DIAL, M/s Celebi Hava Servisi and the assessee on 24/08/2009, the assessee received concession for a period of 25 years to upgrade, modernize and finance the cargo terminal and the common area and to operate, manage and maintain the same for rendering the cargo services. Consequently, the company claimed deduction u/s 80IA of the Act for the profits derived from the said activity for A.Y. 2011-12. This deduction was allowed to the assessee in A.Ys.2011-12 and 2012-13 by the Ld. AO u/s 143(3) of the Act. Thereafter, these assessment years were sought to be revised by the Ld. PCIT u/s 263 of the Act denying the deduction u/s 80IA of the Act. Appeals preferred by the assessee for both the years against the orders passed u/s 263 of the Act before

this Tribunal were decided by this Tribunal vide orders dated 23/10/2018 and 18/02/2019 respectively by quashing the revision orders passed u/s 263 of the Act. Accordingly, consequential assessment orders and the orders of the Ld. CIT(A) were also quashed by the Tribunal on merits. In effect the issue has been decided on merits by the Tribunal up to A.Y.2012-13. Further, this Tribunal in ITA No.8301/Del/2019 for A.Y.2013-14 dated 24/08/2023 had adjudicated this issue on merit by placing reliance on the order of this Tribunal for AYs 2011-12 and 2012-13 and granted relief to the assessee by directing the Ld. AO to grant deduction u/s 80IA of the Act. In fact, the Ld. CIT(A) in A.Y.2013-14 grants deduction u/s 80IA of the Act to the assessee but still he took a divergent stand during the year under consideration. Similarly, we find that this Tribunal in A.Y. 2017-18 in ITA No.354/Del/2021 dated 31/08/2022 had adjudicated the very same issue of claiming deduction u/s 80IA of the Act on merits and granted relief to the assessee. In view of the above, there is no reason for this Tribunal to take divergent stand with regard to claim of deduction u/s 80IA of the Act. Hence, we hold that the assessee

is entitled for deduction u/s 80IA of the Act. Accordingly, grounds raised by the assessee are allowed.

4. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 12th January, 2024.

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 12/01/2024
Pk/sps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI