

आयकर अपीलीय अधिकरण  
दिल्ली पीठ "ए", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री अमिताभ शुक्ला, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आअसं.2627/दिल्ली/2013(नि.व. 2008-09)  
ITA No. 2627/DEL/2013 (A.Y.2008-09)  
आअसं.1695 और 1696/दिल्ली/2016(नि.व. 2009-10 और 2010-11)  
ITA Nos. 1695 & 1696/DEL/2016(A.Ys.2009-10 & 2010-11)  
आअसं.195 और 196/दिल्ली/2015(नि.व. 2011-12 और 2012-13)  
ITA Nos. 195 & 196/DEL/2015 (A.Ys.2011-12 & 2012-13)  
आअसं.1473/दिल्ली/2017(नि.व. 2013-14)  
ITA No. 1473/DEL/2017 (A.Y.2013-14)

Ansal Housing & Construction Ltd.,  
15, UGF, Indra Prakash Building, 21,  
Barakhamba Road, New Delhi 110001

PAN: AAACA-0377-R

..... अपीलार्थी/Appellant

बनाम Vs.

Additional Commissioner of Income Tax,  
Range-2, CR Building, New Delhi 110001

..... प्रतिवादी/Respondent

Assessee by : Shri Rohit Jain & Ms. Manisha Sharma, Advocates &  
Shri Jitendra Bhati, Chartered Accountant  
Department by: Shri Ashish Tripathi, Sr. DR

सुनवाई की तिथि/ Date of hearing : 13/03/2025

घोषणा की तिथि/ Date of pronouncement: : 12/06/2025

आदेश/ORDER

**PER VIKAS AWASTHY, JM:**

These six appeals by the assessee for AY 2008-09 to 2013-14 are taken up together for adjudication as the issues involved in all these appeals emanate from identical set of facts.

2. For the sake of convenience, appeal of the assessee for AY 2008-09 is taken up as a lead case, hence, the facts are narrated from the said appeal.

**ITA No. 2627/DEL/2013 (A.Y.2008-09)**

3. This appeal by the assessee is directed against the order of Commissioner of Income Tax(Appeals)-XXXI, New Delhi (hereinafter referred to as 'the CIT(A)') dated 28.02.2013. The assessee has raised as many as nine grounds in appeal. The gist of issues raised by the assessee in appeal is as under:-

A. Ground no. 1 to 4 of appeal:

Reduction of deduction claimed by the assessee u/s. 80IB(10) of the Income Tax Act,1961(hereinafter referred to as 'the Act') on account of proportionate allocation of following expenses to eligible projects in the ratio of sales:

- (i) Advertisement expenses;
- (ii) Professional charges;
- (iii) Directors meeting Fee; &
- (iv) Directors traveling expenses.

B. Ground no. 5 of appeal:

Addition of Rs.64,98,414/- on account of Notional Annual letting Value of unsold vacant flats and commercial spaces held as stock in trade.

C. Ground no. 6 to 9 of appeal are general in nature.

4. Shri Rohit Jain, appearing on behalf of the assessee submitted that during the relevant assessment year, the assessee had claimed deduction u/s. 80IB(10) of the Act amounting to Rs.8,19,13,284/- in respect of following projects:

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 ITA No. 1473/DEL/2017 (A.Y.2013-14)

Projects	Amount of deduction claimed (in Rs.)
Ansal Court Yard-Agra Housing Project, Agra, UP	1,99,54,115
Nest Homes (Ahsiana) Group Housing Project, Lucknow	48,74,012
Ansal Courtyard-Meerut Housing Project	3,97,05,722
Ansal Woodbury Apartments-Zirakpur Group Housing Project	1,73,79,435
<b>Total</b>	<b>8,19,13,284</b>

The Assessing Officer (AO) proportionally allocated certain expenses viz: Professional Charges, Directors Fees, Directors Foreign Travel Expenditure and Advertisement Expenditure, in the ratio of sales to the aforesaid eligible projects and disallowed the claim of deduction u/s.80IB(10) of the Act to the extent of Rs.52,88,622/-. The assessee carried the issue in appeal before the CIT(A). The First Appellate Authority upheld the action of AO in allocating expenses to the eligible projects. However, the CIT(A) granted part relief to the assessee by excluded certain expenses on the ground that they relate to other projects and not the eligible projects, in the following manner:-

S.No	Expenses considered for allocation	Amount of expenses as considered by AO	Amount of expenses as considered by CIT(A)
1.	Advertisement & Publicity	47,62,182	39,52,200
2.	Professional Charges	1,50,44,822	1,25,60,552
3.	Directors meeting fees	13,60,000	13,60,000
4.	Director's traveling expenses	24,67,372	12,33,685/-

4.1. Aggrieved by the aforesaid findings of the CIT(A), the Revenue and the assessee filed cross appeals before the Tribunal. The Department's appeal in ITA no. 2844/Del/2013 was dismissed by the Tribunal on account of low tax effect. Thus, the issues raised by the assessee in its appeal only survive for adjudication. The Id. Counsel furnished written submissions on the grounds raised by the assessee in grounds of appeal no. 1 to 4. Nevertheless, the Id. Counsel fairly conceded that in so far as

expenditure towards Advertisement, Professional Charges and Directors Meeting Fee are concerned the same have been decided against the assessee by the Tribunal in Department's appeal in ITA No. 2731/Del/2010 and CO of the assessee in CO No.222/Del/2010 for AY 2007-08 decided on 26.07.2024.

4.2. With regard to Directors traveling expenses, the Id. Counsel submits that though this issue was also decided against the assessee by the Tribunal in AY 2007-08 vide order dated 26.07.2024 (supra), however, in assessment years up to AY 2006-07, the AO has been allowing deduction u/s. 80IB(10) of the Act without making any disallowance on account of Directors traveling expenses. Therefore, the principle of consistency demand that no disallowance should be made on account of Directors traveling expense. In support of his submissions, he placed reliance on the decisions rendered in the case of *CIT vs. Excel Industries Ltd.* 358 ITR 295 and *Radhasoami Satsang vs. CIT*, 193 ITR 321 (SC). He further submitted that the AO for the first time in AY 2007-08 allocated aforesaid expenses to various eligible projects in the sales ratio. On appeal, the CIT(A) deleted 50% of Directors traveling expenses. On further appeal, the Tribunal vide order dated 26.07.2024(supra) upheld the order of CIT(A) and dismissed the issue in assessee's CO. The Id. Counsel submits that while adjudicating the issue, the Tribunal failed to appreciate that only expenditure directly attributable to the eligible project is required to be allocated while computing deduction u/s. 80IB(10) of the Act, thus, the order of Tribunal needs reconsideration.

4.3. With regard to issue raised in Ground of appeal no. 5 relating to determination of Notional Annual Letting Value of residential units held as stock in trade, the Id. Counsel fairly stated that this issue has been decided against the assessee by the Hon'ble Delhi High Court in the case of *CIT vs. Ansal Housing Finance and Leasing Company Ltd.* 354

*ITR 180.* However, in respect of farm lands on which no residential unit has been constructed no Notional Annual Rental Value can be attributed. Thus, he pleaded for excluding farm lands from the provisions of section 22 of the Act. He pointed that to examine whether there is any construction or building on farm lands, the issue was *set aside* by the Tribunal for fresh consideration in appeal by the Revenue in *ITA No. 1254/Del/2009 for AY 2005-06*, title *ACIT vs. Ansal Housing & Construction Ltd decided on 28.03.2017*. The issue can be restored back to the AO for verification and grant of relief in accordance with the aforesaid Tribunal order.

5. Shri Ashish Tripathi, representing the department vehemently defended findings of the AO and the findings of the CIT(A) to the extent additions/disallowances were confirmed. The Id. DR submitted that the issues raised by the assessee in appeal are squarely covered in favour of the Department by the order of Tribunal in assessee's own case in preceding assessment years.

6. Both sides heard, orders of the authorities below examined. The first issue raised by the assessee in appeal assailing pro-rata allocation of expenditure on the basis of sales resulting in reduction of deduction u/s. 80IB(10) of the Act. The AO while re-computing assessee's claim of deduction u/s. 80IB(10) of the Act, reallocated advertisement expenses, professional charges, directors meeting fee and directors travelling expenses to eligible projects. In First appeal, the CIT(A) upheld findings of the AO in allocating expenditure on pro rata basis in the ratio of sales. However, the CIT(A) granted part relief to the assessee after excluding certain expenditure from advertisement expenses, professional charges and directors travelling expenditure.

We find that the Coordinate Bench in assessee's own case for AY 2007-08 in *ITA No.2731/Del/2010* and *CO No. 222/Del/2010 (supra)* has considered the identical issue

and has upheld findings of the CIT(A) in allocation of expenditure in the ratio of sales to other projects. Hence, in so far reallocation of advertisement expenses, professional charges and directors meeting fee on pro rata basis in ratio of sales, we find no infirmity in the order of CIT(A), ergo, the same is upheld. Consequently, ground no. 1, 2 & 3 of appeal are dismissed.

7. As regards directors travelling expenses, the Id. Counsel for the assessee has pointed that in the preceding assessment years i.e. upto AY 2006-07, the AO has allowed the deduction u/s. 80IB(10) of the Act. It is only in the immediate preceding assessment year i.e. AY 2007-08, the issue has been decided against the assessee. When the issue was raised before the Tribunal, the Tribunal upheld findings of the CIT(A). We find that there is no material change in the impugned assessment year. Hence, we see no reason to take a different view. The ground no. 4 of appeal is dismissed, accordingly.

8. In ground no. 5 of appeal, the assessee has assailed addition based on Notional Annual Letting Value of unsold vacant flats held as stock in trade. The Id. counsel has pointed that the AO while determining the Notional Annual Letting Value has also included part of farm land on which there is no construction. The Id. Counsel has fairly conceded that in so far as vacant residential flat and commercial spaces held as stock in trade, the issue is squarely covered against the assessee by the decision of Hon'ble Jurisdictional High Court in the case of *CIT vs. Ansal Housing Finance Leasing Company reported as 354 ITR 180 (Del.)* In so far as determination of Notional Annual Letting Value on farm lands, we find that in AY 2005-06 in ITA No. 1254/Del/2009 (supra) in assessee's own case the Tribunal has restored the issue back to the AO with following directions:

*“38. We find that no findings have been recorded in this regard by lower revenue authorities, as to whether annual letting value could be determined in respect of such farm lands in terms of section 22 or not. We may observe that if there was no building on farm lands then it will not come within the ambit of section 22. On this aspect, the Assessing Officer is directed to examine the issue afresh.”*

We deem it appropriate to restore the issue of re-examination of Notional Annual Letting Value on farm lands to the AO in terms of aforesaid directions of the Tribunal.

In the result, ground no. 5 of appeal is partly allowed for statistical purpose in the terms aforesaid.

9. Grounds of appeal no. 6 to 9 are general in nature, hence, require no separate adjudication.

10. In the result, appeal of the assessee is partly allowed for statistical purpose.

**ITA Nos. 1695 & 1696/DEL/2016(A.Ys.2009-10 & 2010-11)**

**ITA Nos. 195 & 196/DEL/2015 (A.Ys.2011-12 & 2012-13)**

11. Both the sides unanimously stated that the issues raised in these appeals emanate from identical set of facts and grounds of appeal are also identical except for the amounts. The submissions already made for AY 2008-09 would equally apply to these assessment years.

12. Since, the issues raised in the instant appeals have already been considered by us, while adjudicating the appeal of assessee for AY 2008-09, the findings given by us while adjudicating the said appeal would mutatis mutandis apply to appeals of the assessee for AY 2009-10 to 2012-13.

13. In the result, for partly of reasons appeals of the assessee are partly allowed for statistical purpose.

**ITA No. 1473/DEL/2017 (A.Y.2013-14)**

14. In AY 2013-14, the first two issues raised by the assessee in appeal are identical to the one already considered by us, while deciding appeal of the assessee for AY 2008-09. Therefore, the findings given by us on the issues of reduction of deduction u/s. 80IB(10) of the Act on account of proportionate allocation of expenses to eligible projects in the ratio of sales and Notional Annual Letting Value of flats and commercial units held as stock in trade would *mutatis mutandis* apply in the impugned assessment year, as well.

15. In addition to the above two issues, the assessee in ground no. 3 of appeal has assailed addition of Rs.10,82,952/- made u/s. 14A r.w.r 8D of the Income Tax Rules, 1963. The Id. Counsel for the assessee submits that the assessee has made investments in subsidiary companies and also in Shares and Mutual Funds. During the year relevant to the assessment year under appeal, the assessee had earned dividend income of Rs.2940/- on Mutual Funds. No *suo moto* disallowance was made by the assessee for earning exempt income. In assessment proceedings, the AO invoked the provisions of Rule 8D(2)(iii) r.w.s. 14A and made disallowance of Rs.10,82,952/- being 0.5% of the average value of investments. The assessee carried the issue in appeal before the CIT(A), but remained unsuccessful. The Id. Counsel for the assessee submitted that in the first place no satisfaction as envisaged u/s. 14A(2) of the Act was recorded by the AO. Therefore, the disallowance made by the AO is liable to be deleted. Without prejudice to the primary submissions, the Id. Counsel submits that the disallowance

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u/s. 14A of the Act may be restricted to the extent of exempt income earned by the assessee during the relevant period.

16. Per contra, the Id. DR supported findings of the AO and the CIT(A) on this issue and prayed for dismissing the ground raised by the assessee.

17. Both sides heard. Undisputedly, the assessee earned dividend income of Rs. 2940/- only during the relevant period. It is no more *res integra* that disallowance u/s. 14A of the Act cannot exceed the exempt income earned. Without further delving into assessee's primary argument, we direct the AO to restrict disallowance u/s. 14A of the Act to the extent of exempt income earned by the assessee. The alternate prayer made by the assessee is accepted, consequently ground no. 3 of appeal is allowed protanto.

18. In the result, appeal of the assessee is partly allowed.

19. To sum up:

ITA No.	Assessment Years	Result
2627/DEL/2013 1695 & 1696/DEL/2016 195 & 196/DEL/2015	2008-09 to 2012-13	Partly Allowed for Statistical Purpose
1473/Del/2017	2013-14	Partly Allowed

Order pronounced in the open court on Thursday the 12<sup>th</sup> day of June, 2025.

Sd/-

(AMITABH SHUKLA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 12/06/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

ITA No. 2627/DEL/2013 (A.Y.2008-09)  
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ITA No. 1473/DEL/2017 (A.Y.2013-14)

**NV/-**

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI