

IN THE INCOME TAX APPELLATE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(VIRTUAL HEARING AT KOLKATA)

SHRI MANOMOHAN DAS, JUDICIAL MEMBER
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

I.T.A. No. 126/GTY/2023
Assessment Year: 2016-17

&

I.T.A. No. 127/GTY/2023
Assessment Year: 2017-18

Deepa Jhunjhunwala,

Juhar Market, Shillong, East Khasi,
Hills, Meghalaya - 793001

[PAN: ABWPJ6894N]**Appellant**

vs.

Income Tax Officer, Ward-1, Shillong,

Aayakar Bhawan, Kharmalki Road,
Shillong - 793001

..... **Respondent**

Appearances by:

Assessee represented by : Ramesh Goenka, Advocate
Department represented by : Kausik Ray, JCIT

Date of concluding the hearing : 16.10.2025

Date of pronouncing the order : 28.10.2025

ORDER

PER SANJAY AWASTHI, ACCOUNTANT MEMBER:

1. ITA No. 126/Gty/2023 arises from order u/s 250 of the Income Tax Act, 1961 (hereafter “the Act”), dated 09.04.2022, passed by the Ld. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi [hereafter “the Ld. CIT(A)] pertains to Assessment Year 2016-17. On the other hand, ITA No. 127/Gty/2023 pertaining to AY 2017-18 arises from order dated 09.04.2022, passed u/s 250 of the Act by the Ld. CIT(A), NFAC, Delhi.

1.2 These are two appeals pertaining to the same assessee and challenge the action of Ld. AO-CPC, who has processed these two cases for AYs 2016-17 and 2017-18. In ITA No. 126/Gty/2023 (AY 2016-17), the facts are that the Ld. AO has made an adjustment by disallowing the assessee's claim for deduction u/s 80IE of the Act. While in ITA No. 127/Gty/2023 (AY 2017-18) there once again the claim of section 80IE of the Act has been denied while processing of the return.

1.2 The assessee could not succeed for either of the years before the Ld. CIT(A) and thereafter aggrieved the assessee has approached the ITAT with the following grounds:

ITA No. 126/Gty/2023

“1. That despite having held that the Income Tax Return filed by the appellant was an invalid return as per provisions of section 139(9) of the Income Tax Act, 1961, the ld. Commissioner of Income Tax (Appeals) erred in law in affirming the Intimation dated 12.06.2018 issued U/s. 143(1) of the Income Tax Act, 1961, instead of annulling it.

2 That the Ld. Commissioner of Income Tax (Appeals) ought to have held that the impugned Intimation U/s. 143(1) of the Income Tax Act, 1961 having been issued without providing the appellant with an opportunity of being heard, was in contravention of the mandatory provisions of section 143(1) of the Income Tax Act, 1961 and therefore was invalid and liable to be struck down.

3 Without prejudice to Ground No. 1 and 2 taken above, both the Ld. Assessing Officer and the Ld. Commissioner of Income Tax (Appeals) erred in law in disallowing the appellant's claim for deduction U/s. 80-IE of the Income Tax Act, 1961 even though a valid Income Tax Return had duly been filed U/s. 139(4) of the Income Tax Act, 1961.

4. Without prejudice to Ground No. 1 and 2 taken above, both the ld. Assessing Officer as well as the Id. Commissioner of Income Tax (Appeals) erred in law as well as on facts in not allowing benefit of deduction of section 80-IE of the Income Tax Act, 1961 to the appellant even though there was no dispute regarding the appellant's eligibility for deduction U/s. 80-IE of the Income Tax Act, 1961, as it fulfilled all the conditions laid down in that

5. Without prejudice to Ground No. 1 and 2 taken above, both the Id. Assessing Officer as well as the Id. Commissioner of Income Tax (Appeals) erred in law as well as on facts in not appreciating that section 80AC of the Income Tax Act, 1961 was in the nature of a procedural section and the appellant having made substantial compliance of that section, it should have been allowed deduction U/s. 80-IE of the Income Tax Act, 1961.

6. Without prejudice to Ground No. 1 and 2 taken above, both the ld. Assessing Officer as well as the ld. Commissioner of Income Tax (Appeals) erred in law as well as on facts in not appreciating that section 80AC of the Income Tax Act, 1961 was in the nature of a machinery provision and therefore directory and not mandatory in nature.

7. Without prejudice to the grounds taken here-in-above, the computation of total income made vide the impugned Intimation U/s. 143(1) dated 12.06.2018 of the Income Tax Act, 1961 at Rs. 48,95,250/-, is not in accordance with the provisions of Income Tax Act, 1961.

8. That the appellant craves leave to submit and/or alter any other ground/s on or before the hearing of the appeal.”

ITA 127/Gty/2023

“1. That despite having held that the Income Tax Return filed by the appellant was an invalid return as per provisions of section 139(9) of the Income Tax Act, 1961, the Id. Commissioner of Income Tax (Appeals) erred in law in affirming the Intimation dated 28.02.2019 issued U/s. 143(1) of the Income Tax Act, 1961, instead of annulling it.

2. That both the Assessing Officer and the Ld. Commissioner of Income Tax (Appeals) erred in law as well as on facts in disallowing the appellant's claim for deduction of Rs. 18,98,189/-U/s. 80-1E of the Income Tax Act, 1961 due to delay in filing of Form 10CCB which was filed after due date for filing of Income Tax Return but before time limit for completion of assessment proceedings, and in doing so, ignored the law laid down by the Hon'ble Supreme Court in C.LT. Vs. G.M. Knitting Industries (P.) Ltd. (2015) 376 ITR 456 (SC).

3. Without prejudice to Ground No. 1 and 2 taken above, the Ld. Commissioner of Income Tax (Appeals) ought to have held that the amount of Rs. 27,52,137/-, being the amount of VAT Remission received during the year, was in the nature of Capital Receipt, and therefore, not chargeable to tax.

4. Without prejudice to the grounds taken here-in-above, the computation of total income made vide the impugned Intimation U/s. 143(1) of the Income Tax Act, 1961 at Rs. 17,48,190/-, is not in accordance with the provisions of Income Tax Act, 1961.

5. That the appellant craves leave to submit and/or alter any other ground/s on or before the hearing of the appeal.”

2. Before us, the Ld. AR stated at the Bar that he was only pressing Ground Nos. 2 individually in both the years. For AY 2016-17, it has been averred that before making adverse adjustments, the Ld. AO-CPC has not given any opportunity of being heard as mandated u/s 143(i)(a) of the Act. The Ld. AR read out the said proviso and emphasised the point that no adjustment could be made until and unless an intimation was given by the Ld. AO before making such adjustment. In this regard, the Ld. AR

relied on the case of Sri Kailash Modi Tinsukia Vs. ITO, ITA No. 296/Gty/2018, dated 18.01.2024. It was averred that in case no intimation is given prior to making the adjustment then the action of Ld. AO would be fatally hit.

2.1 Regarding the case for AY 2017-18, it was averred that the deduction u/s 80IE of the Act was denied on the ground that Form 10CCB was filed belatedly. It was argued that the filing of Form 10CCB within time was a “directory” condition and not “mandatory”. In support of this point the Ld. AR relied on the case of Hitech Systems & Services Limited, ITA No. 1318/Gty/2024, dated 06.01.2025.

2.2 The Ld. DR relied on the orders of authorities below for both the years.

3. We have carefully considered the submission of Ld. AR/DR, we have gone through the records before us and we have perused the ITAT orders relied on by the Ld. AR for both the years. We may extract relevant portions from such relied upon orders, as relevant for the two assessment years under consideration.

3.1 ITA No. 126/Gty/2023 (AY 2016-17), in the case of Sri Kailash Modi (supra), the following extract is relevant:

“5. We have heard the rival contentions and perused the records available on record. We notice that the assessee claimed deduction u/s 80IA of the Act but the same was denied by the CPC in the order passed u/s 143(1)(a) of the Act. We observe that proviso to Section 143(1)(a) of the Act provides that no adjustment can be made u/s 143(1)(a) of the Act unless an intimation is given to the assessee of such adjustment either in writing or in electronic mode. Second proviso to Section 143A of the Act further provides that the response received from the assessee if any shall be considered before making any adjustment and in a case, where no response is received within 30 days of the issue of such intimation, such adjustments shall be made. 6. Before us, the ld. Counsel for the assessee has contended that no prior intimation was given to the assessee before making the alleged adjustment or denying deduction u/s 80IE of the Act. We note that under similar set of facts and circumstances, in the case of Smt. Neelam Pachisia, Bangalore (supra), where the assessee has claimed deduction u/s 80IC of the Act for A.Y. 2016- 17 and prior to denying the deduction, CPC had not given any opportunity to the assessee by way of giving intimation. This issue has been dealt by this Tribunal by observing as under:-

“2. We heard the parties and perused the record. The facts relating to the issue are discussed in brief. The assessee is engaged in the business of production of toilet roll, hand kerchief, cleaning table cloth, serviettes, paper napkins, wet tissues, facial tissues, etc. It filed its return of income for the year under consideration on 30-03-2017, i.e., beyond the due date specified u/s 139(1) of the Act. The assessee had also claimed deduction u/s 80IC of the Act to the tune of Rs.38,21,576/-. The return of income was processed u/s 143(1) of the Act on 25.06.2017 by disallowing the claim of Rs.38,21,576/- made u/s 80IC of the Act. The assessee challenged the same by filing appeal before Ld CIT(A).

3. Before Ld CIT(A), the assessee submitted that the audit report for claiming deduction u/s 80IC was filed in time, but the return of income could be filed belatedly, as the assessee did not have adequate funds to pay self assessment tax. The assessee, by placing reliance on certain case laws, contended that the deduction u/s 80IC should be allowed. However, the Ld CIT(A) noticed that the provisions of sec.143(1)(v) specifically states that the deduction u/s 80IC shall be disallowed, if the return of income is furnished beyond the due date prescribed u/s 139(1) of the Act. Accordingly the Ld CIT(A) confirmed the disallowance. Aggrieved, the assessee has filed this appeal.

4. The Ld A.R submitted that the year under consideration is AY 2016-17 and the clauses (iii) to (vi) was inserted into sec.143(1) of the Act by Finance Act, 2016 w.e.f. 1.4.2017. There is no doubt that clause (v) of the amended sec. 143(1) provides for disallowance of deduction claimed u/s 80IC shall be disallowed, if the return of income is furnished beyond the due date prescribed u/s 139(1) of the Act. However, the said clause was inserted with effect from 1.4.2017 and hence, the amended provisions shall apply only from AY 2017- 18. Since the year under consideration is AY 2016-17, the above said provisions shall not apply to the year under consideration.

5. The Ld D.R, on the contrary, submitted that the return of income was processed on 25.06.2017, i.e., after 1.4.2017 and hence the claim of the assessee was rightly disallowed u/s 143(1)(v) of the Act. She further submitted that the provisions of sec. 80AC mandates that the deduction can be claimed only if the return of income is filed within the due date.

6. However, on the perusal of the provisions of sec.143(1), it was noticed that the following proviso was also inserted by Finance Act, 2016:-

“Provided that no such adjustment shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode.”

When the bench asked as to whether any intimation was given to the assessee as contemplated under the above said proviso, the Ld A.R submitted that the assessee has not received any intimation as provided under the Proviso to sec.143(1). Hence the Ld D.R was asked to find out as to whether any intimation was given to the assessee. The Ld D.R furnished a letter F.No.CPC/UIV/Judicial/2019-20 dated 03-03-2020, wherein it was stated that no intimation was given to the assessee. It was also stated that the year under consideration being AY 2016-17, no such intimation needs to be given.

7. We have noticed that the return of income of the assessee pertaining to AY 2016-17 was processed u/s 143(1) on 25.06.2017, i.e., after the date of insertion of clause (v) to sec. 143(1), i.e, after 1.4.2017. The contention of the revenue is that, if processing of return of income of any assessment year is done after 1.4.2017, then the provisions of clauses (iii) to (vi) inserted w.e.f. 1.4.2017 can be applied. In that case, in our view, the proviso mandating giving of intimation to the assessee to the proposed adjustment should have also been followed by the revenue. It is so because, the said proviso was also inserted in sec.143(1) along

with clauses (iii) to (vi) by Finance Act, 2016. Since no such intimation was given to the assessee, the impugned adjustment is liable to be deleted. The Ld D.R invited our attention to the provisions of sec.80AC of the Act. However, the controversy here is related the power of the AO in processing return of income u/s 143(1) of the Act. Hence we are of the view that we need not examine the provisions of sec.80AC of the Act at this stage.

8 Accordingly, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to delete the disallowance of deduction claimed u/s 80IC of the Act.

9. In the result, the appeal of the assessee is allowed.”

7. We have gone through the above decision of this Tribunal and find that the same is squarely applicable on the issue raised before us and therefore, respectfully following the same, we allow the ground no.3 raised by the assessee because no such intimation was given to the assessee prior to make the impugned adjustment. The ground no.3 of the appeal is allowed.”

Considering the clear finding in this regard, we agree with the Ld. AR in principle that the Ld. AO-CPC should have given an intimation before making any adjustment whatsoever. However, a perusal of the documents before us does not clearly reveal whether such intimation was given at all or not. The Ld. DR was also not able to assist us in this exercise during the course of hearing. Accordingly, we deem it fit to set aside the impugned order and remand this issue back to the file of Ld. CIT(A), who would specifically examine whether any opportunity/intimation was given by the Ld. AO before making the adjustment. It is clear that in case no intimation has been given then the assessee gets relief from the upward adjustment made by the Ld. AO.

3.2 Regarding the case - ITA No. 127/Gty/2023 (AY 2017-18), for this issue, the Ld. AR is seen to have correctly relied on the case of Hitech Systems (supra) and relevant portion from the same may be extracted for our guidance:

“5. We note that the issue is squarely covered by the various decisions of the Hon’ble High Court as well as Coordinate Benches of this Tribunal. Reliance in this respect can be placed on the recent decision of the Pune Bench of the Tribunal in the case of Desai Infra Projects (I) Private Limited Vs. Commissioner of Income Tax (Appeals), Pune, ITA No. 1852/Pune/2024 order dated 30.12.2024, wherein, the Coordinate Bench of the Tribunal in almost identical facts and circumstances and in relation to the assessment year 2022-23 itself, wherein the denial of deduction was made by the CPC while processing the

return u/s. 143(1) of the Act itself. The Coordinate Bench, while deliberating upon the relevant provisions of the Act and also placing reliance on the various case laws, has held that since the assessee has duly filed the Form 10CCB much before the date when the return of the assessee was processed by the CPC u/s. 143(1) of the Act and the assessee was also claiming and was allowed deduction u/s. 80IA in the earlier assessment years then, there was no justification on the part of the CPC to deny the deduction for small delay in filing the audit report in Form 10CCB. The relevant part of the order of the Coordinate Bench of the Tribunal in the case of *Desai Infra Projects (I) Private Limited (supra)* is reproduced as under:

“6. We have heard rival submissions made by both the sides and perused the material available on record. We find the assessee in its return of income had claimed deduction of Rs.3,42,22,760/- u/sec.80IA(4)(i) of the Act, which was denied by the CPC in the intimation passed u/sec.143(1) of the Act. We find the Ld. CIT(A) rejected the arguments advanced by the assessee and dismissed the appeal, the reasons of which, have already reproduced in the preceding paragraphs. It is the submission of the Learned Counsel for the Assessee that the CPC does not have any power to deny the claim of deduction u/sec.80IA(4) while processing the return u/sec.143(1). It is also his argument that since the assessee has filed the audit report before the processing of the return and since filing of audit report is directory and not mandatory, therefore, the deduction should not have been denied.

6.1. We find some force in the above arguments of the Learned Counsel for the Assessee. Admittedly, in the instant case, the assessee has filed audit report in Form-10CCB on 31.10.2022 and the CPC has processed the return of income on 16.03.2023. It is also an admitted fact that as per the intimation u/sec.143(1), the extended due date for filing of the return for the assessment year 2022-2023 is 07.11.2022.

6.2. We find an identical issue had come-up before the Chennai Bench of the Tribunal in the case of *Natesan Precision Components Private Limited, Chennai vs. DCIT in ITA.No.1397/Chny/2024*, order dated 09.08.2024 for the assessment year 2018-2019, wherein it has been held that a claim of deduction u/sec.80IA(4) cannot be denied merely because the audit report in Form-10CCB was filed belatedly i.e., not along with the return of income. The relevant observations of the Tribunal are as under :

“8. We have heard both the parties and perused the material available on record. We find that this was the 8th year of claiming deduction u/s.80IA of the Act and in earlier year assessee was granted such deduction; and in the relevant AY, the CPC denied the deduction only on the ground that Audit Report/ Form No.10CCB was belatedly e-filed i.e., not along with the return of income. On appeal, the Ld. CIT(A) has confirmed the action of the CPC by holding that the assessee ought to have filed Form No.10CCB on the due date, which requirement of law, we note came w.e.f. 01.04.2020 and is not applicable for AY 2017-18. Having said so, we note that the assessee had e-filed Form No.10CCB before the CPC had processed the return of income u/s 143(1) of the Act; and therefore, the deduction claimed ought to have been allowed as held by the Hon’ble Supreme Court in the case of *GM Knitting Industries (P.) Ltd., (supra)*, wherein the Apex Court had an occasion

to examine the action of Bombay High Court holding that if Form 3AA is filed before the assessment proceedings culminated, then additional depreciation shall be allowed and such a claim should not be denied only because assessee did not furnish Form 3AA along with return of income. And the Hon'ble Apex Court, affirmed the action of the Hon'ble High Court of Bombay as well as tagged along matter wherein Revenue challenged the action of the Hon'ble Madras High Court in AKS Alloys Pvt. Ltd (supra) and the Civil Appeal of department was dismissed, which means the decision of the Hon'ble Madras High Court has been affirmed by Hon'ble Supreme Court, and is binding precedent that if assessee had filed the Form 10CCB before the assessment proceedings culminate, then the deduction claimed u/s.80IB ought not to be denied on the reason that assessee did not file Form 10CCB along with Return of Income (ROI). We also note the Hon'ble Supreme Court's decision in M/s. Wipro Ltd. (supra) was in the context of that assessee's [Wipro] claim of exemption under Chapter III, in contra-distinction to the claim raised by the present assessee under Chapter VI-A. And it would be gainful to reproduce the Hon'ble Supreme Court's observation in M/s. Wipro Ltd., wherein in the distinction in the claim made for exemption under Chapter 17 ITA.No.1852/PUN./2024 III and deduction claimed under Chapter VI was noted as under :

“11. Now so far as the reliance placed upon the decision of this Court in the case of G.M. Knitting Industries Pvt. Ltd. (supra), relied upon by the learned counsel appearing on behalf of the assessee is concerned, Section 10B (8) is an exemption provision which cannot be compared with claiming an additional depreciation under section 32(1) (ii-a) of the Act. As per the settled position of law, an assessee claiming exemption has to strictly and literally comply with the exemption provisions. Therefore, the said decision shall not be applicable to the facts of the case on hand, while considering the exemption provisions. Even otherwise, Chapter III and Chapter VIA of the Act operate in different realms and principles of Chapter III, which deals with "incomes which do not form a part of total income", cannot be equated with mechanism provided for deductions in Chapter VIA, which deals with "deductions to be made in computing total income". Therefore, none of the decisions which are relied upon on behalf of the assessee on interpretation of Chapter VIA shall be applicable while considering the claim under Section 10B (8) of the IT Act. [emphasis given by us]”

9. In the light of the discussion, and taking note that assessee had e-filed the audit report in Form 10CCB on 30.03.2019 and processing by CPC u/s.143(1) of the Act took place only on 12.01.2020, which is an event much after the assessee had e-filed the Form 10CCB, therefore, the claim of deduction ought to have been granted especially when assessee was granted such a deduction for the earlier 5 years. Therefore, we set-aside the impugned order of Ld. CIT(A)/JCIT(A) and direct the AO to allow the claim of deduction u/s.80IA of the Act.

10. In the result, appeal filed by the assessee is allowed.”

6.3. We find the Kolkata Bench of the Tribunal in the case of Tarasafe International (P.) Ltd., vs. DDIT, CPC (supra) after considering the decision of the Hon'ble Supreme Court in the case of Pr. CIT vs. Wipro Ltd., (supra), has held that when the audit report is filed before the final order of assessment, the assessee was entitled to claim deduction under section 80JJAA. The relevant observations of the Kolkata Bench of the Tribunal from para-2 onwards read as under :

“2. The short issue involved in this appeal is as to whether the late filing of audit report in Form 10DA would disentitle the assessee from claiming deduction u/s.80JJAA of the Act, when the said Form 100A was

available to the Ld. AO at the time of assessment proceedings. The assessee in this case filed the Form 100A on 27.10.2023 as against the due date of 30.09.2023 but, the same was available to the AO at the time of processing the return of income as the notice u/s. 143(1)(a) of the Act was issued by the CPC to the assessee on 23.11.2023.

3. The issue is squarely covered by the decision of Hon'ble Supreme Court in the case of CIT V. G. M Knitting bahotries (P) Ltd. (2016/12 SCC 272/[2016] 71 taxmann.com 35/376 ITR 456 (SC), wherein the Hon'ble Supreme Court has held that, even though it is necessary to file certificate in Form 10CCB along with the return of income, but even if the same has not been filed with the return of income, but the same was filed before the final order of assessment was made, the assessee was entitled to claim deduction u/s. 80-IB of the Act.

4. So far as the reliance of the Id. DR on the another decision of the Hon'ble Supreme Court in the case of CIT v. Wipro Lid 120221 140 taxmann.com 223/288 Tasman 491/446 ITR I (SC) is concerned, it is to be observed that the said case is relating to the claim of exemption u/s. 10B falling under Chapter III of the I.T. Act. However, the claim of the assessee in the case in hand is u/s. 80JJAA of the Act under Chapter VIA of the Act. The Hon'ble Supreme Court in para 11 of the judgment in the case of Wipro Lid (supra) has clarified the position that the exemption provisions are to be strictly adhered to whereas the decision of the Hon'ble Supreme Court in the case of G. M. Knitting Industries Pvt. Ltd. (supra) is relating to deduction provisions u/s.VA of the Act the relevant para 11 of the order of the Hon'ble Supreme Court in the case of Wipro Lad. (supra) is reproduced below :

"11. Now so far as the reliance placed upon the decision of this court in the case of G. M. Knitting Industries Pvt. Ltd. (supra), relied upon by the learned counsel appearing on behalf of the assessee is concerned, section 10B(8) is an exemption provision which cannot be compared with claiming an additional depreciation under section 32(1)(iia) of the Act. As per the settled position of law, an assessee claiming exemption has to strictly and literally comply with the exemption provisions. Therefore, the said decision shall not be applicable to the facts of the case on hand, while considering the exemption provisions. Even otherwise, Chapter III and Chapter VIA of the Act operate in different realms and principles of Chapter III, which deals with "income which do not Form a part of total income", cannot be equated with mechanism provided for deductions in Chapter VIA, which deals with "deductions to be made in computing total income". Therefore, none of the decisions which are relied upon on behalf of the assessee on interpretation of Chapter VIA shall be applicable while considering the claim under section 10B(8) of the I.T. Act.

"In view of this, the issue is squarely covered in favour of the assessee by the decision of the Hon'ble Supreme Court in the case of G. M. Knitting Industries Pvt. Ltd. (supra) the impugned order of the Ld. CIT(A) is, therefore, set aside and the AO is directed to grant deduction to the assessee u/s. 80JJAA of the Act as claimed. The appeal of the assessee stands allowed.

5. In the result, the appeal of the assessee stands allowed."

6.4. Since the assessee in the instant case has admittedly filed the audit report in Form-10CCB prior to the processing of the return, therefore, respectfully following the decisions cited (supra), we are of the considered opinion that assessee cannot be denied deduction u/ sec.80IA(4) of the Act.

Accordingly, the order of the Ld. CIT(A) is reversed and the grounds raised by the assessee are allowed.

7. In the result, appeal of the assessee is allowed."

6. Reliance in this respect can also be placed on the decision of the ITAT, Delhi Bench in the case of Sanjay Kukreja Vs. ACIT, ITA No. 652/Del/2023 dated 30.01.2024 (AY 2019-20), wherein the coordinate bench of the Tribunal, while relying upon the various case laws, has held that the filing of the Form 10CCB on or before the specified date was only directory and not mandatory. The relevant part of the order of the coordinate Bench of ITAT, Delhi in the case of S. Kukreja (supra) is reproduced as under:

7. The issue is squarely covered in favour of the assessee by various decisions of the Hon'ble High Court as well as the decision of the Tribunal as referred to in the above cited decisions. We, therefore, find no infirmity in the order of the Ld. CIT(A) and the same is hereby upheld."

3.3 Considering the clear finding in the said order of ITAT, we set aside the impugned order and direct the Ld. AO to grant the relief, as per law u/s 80-IE of the Act.

4. In result, ITA No. 126/Gty/2023 is allowed for statistical purposes, while ITA No. 127/Gty/2023 is allowed.

Order pronounced on 28.10.2025

Sd/-
[Manomohan Das]
Judicial Member

Sd/-
[Sanjay Awasthi]
Accountant Member

Dated: 28.10.2025
AK, Sr. PS

Copy of the order forwarded to:

1. The Appellant
2. The Respondent
3. CIT(A)-
4. CIT-
5. CIT(DR)

//True copy//

By order

Assistant Registrar, Kolkata Benches