

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**BEFORE SH. S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SH. SUDHIR KUMAR, JUDICIAL MEMBER**

ITA No.3847/Del/2025
Assessment Year: 2003-04

M/s RMSI PRIVATE LIMITED, 50/9, 1 ST FLOOR, TOLSTOY LANE, JANPATH, JANPATH S.O., NEW DELHI – 110 001 PAN: AAACR0680C	Vs	ACIT, CIRCLE 20(2) NEW DELHI
(APPELLANT)		(RESPONDENT)

Appellants by	Shri Anil Bhalla, CA & Shri Nitin Sharma, CA
Respondent by	Ms. Monika Singh, CIT-DR

Date of hearing:	07/01/2026
Date of Pronouncement:	14/01/2026

ORDER

PER SUDHIR KUMAR, JM:

This appeal by the assessee is directed against the order of NFAC, New Delhi, vide order dated 15.4.2025 pertaining to A.Y. 2003-04 arising out of the assessment order dated 15.12.2018 passed by the Assessing Officer under Section 143(3) read with section 254 of the Income Tax Act, 1961 [hereinafter referred as 'the Act'].

2. The brief facts of the case are that the assessee is a company and filed its return of income declaring total income at Rs. 14,61,81,868/-. The original assessment was completed u/s 143(3) of the Act on 17.3.2006 assessing total income at Rs. 15,63,85,92/-. Aggrieved, assessee filed appeal before the CIT(A)Delhi. The CIT(A), Delhi dismissed the appeal of the assessee. Subsequently the assessee filed appeal before ITAT and the ITAT has partly allowed the appeal of the assessee for statistical purposes and restored the matter to the file of the AO for verification of submission regarding claim of deduction u/s. 10A of the Act. Accordingly, the AO provided many opportunities by issuing notices to the assessee to furnish its submission/ explanation. However, the assessee company remained non-compliant throughout the assessment proceedings. During the assessment proceedings, the AO noted that assessee company has claimed deduction u/s. 80HHE of Rs.11,34,91,766/- considering total turnover of Rs. 54,02,02,016/-. However, from perusal of profit and loss account, AO noted that total turnover of the assessee was Rs. 57,15,43,130/-. The assessee company for the purpose of claiming higher deduction u/s. 80HHE of the Act had reduced its total turnover by the difference of opening and closing unbilled revenue. Therefore, the AO recomputed the deduction u/s. 80HHE of the Act at Rs. 10,82,45,940/- considering total

turnover at Rs. 57,15,43,130/- and disallowed the excess claim of deduction claimed u/s. 80HHE of the Act.

3. Aggrieved by the order of the AO the assessee filed the appeal before the Ld.CIT(A), who vide his order dated 15.4.2025 dismissed the appeal against which the assessee is in appeal before the Tribunal.

4. At the time of hearing, Ld. AR has submitted that this is the second round of litigation. He further submitted that ITAT allowed the deduction u/s. 10A of the Act holding that u/s 10A(9) of the Act did not come in the way to hold the deduction against which the Department filed the appeal which was dismissed by the Hon'ble High Court. The Department also filed the SLP before the Hon'ble Supreme Court which was also dismissed.

5. Ld. DR for the revenue relied upon the orders of the authorities below.

6. We have heard the rival contentions and perused the records. We find that the Tribunal in assessee's own case for the assessment year 2003-04 & 2004-05 in ITA No. 225 & 226/Del/2009 vide order dated 12.05.2017 has held as under:-

“5.8 We thus, respectfully following the ratio laid down in the above cited decision of the Hon'ble Supreme Court hold that the provisions laid down under section 10A(9) and Explanation 1 thereto already omitted from 1.4.2004 in the absence of

saving right provided under section 6 of General Clause Act, cannot be applied by the Assessing Officer to deny the claimed deduction under section 10A of the Act to the assessee. The Assessing Officer is accordingly directed to allow the claimed deduction as per law. The ground no. 1 is thus, allowed.”

7. Against the aforesaid decision of the Tribunal, the Department filed the appeal before the Hon’ble Delhi High Court, who vide its decision dated 31.1.2018 in ITA No. 103/2018 has held as under:-

“4. In the opinion of this Court, even with Section the 10(9) contention of the assessee that there was no transfer of ownership but reorganization of the corporate structure or pattern of shareholding within the group, had to be accepted. In these circumstances, the question of law urged does not arise; the appeals, therefore, dismissed.”

8. Aggrieved, the aforesaid decision of the Hon’ble High Court, the Revenue also filed SLP before the Hon’ble Supreme Court and the Hon’ble Supreme Court has dismissed the Revenue’s appeal.

9. We noted that AO did not allow the deduction u/s. 10A against which the appeal was also dismissed by the CIT(A). However, the Tribunal directed the AO to allow the claim of

deduction, as per law, which was not allowed by the AO. We, therefore, direct the AO, to allow the claim of deduction u/s. 10A, after verifying the submissions/documents submitted by the assessee.

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

Order pronounced in the open court on 14.01.2026.

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

SR Bhatanaggar

Date:- 14.01.2026

Copy forwarded to:

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

Sd/-

**(SUDHIR KUMAR)
JUDICIAL MEMBER**

ASSISTANT REGISTRAR
ITAT NEW DELHI