

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

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI BIJAYANANDA PRUSETH, ACCOUNTANT MEMBER**

**I.T.A. No. 6718/Mum/2024  
A.Y: 2014-15**

ITO, 27(3)(1) Room No. 422, 4 <sup>th</sup> Floor, VRSCCL, Vashi RLY Stn Navi Mumbai	Vs	Viral Industries A-1, New Chandraoday Housing Co Op Society 152, Ghatkopar East, Mumbai <b>PAN - AAEFV1645R</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Rajesh Athavle
Revenue by	Ms. Kavitha kaushik, Sr. DR

Date of Hearing	19.01.2026
Date of Pronouncement	29.01.2026

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the revenue challenging the impugned order dt. 20.12.2024 passed under section 250 of the Income Tax Act, 1961 ('the Act'), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2014-15. The revenue has raised the following rolls of appeal.

*a. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified & correct in allowing the appeal of the assessee and in granting the deduction u/s 80IB as disallowed by the AO amounting to Rs. 2,08,61,271/- despite the assessee being ineligible of the same"?*

*b. "Whether on the facts and circumstances of the case and in law, the Ld.CIT(A) was justified & correct in not appreciating the facts recorded by the AO in the assessment order for the assessee being ineligible for the said deduction before allowing such deduction."*

*c. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified & correct in granting the appeal of the appellant without the completion of the appellate proceedings for A.Y. 2013-14 which contains the same issue and being the initial year of deduction which itself is pending before Ld. CIT(A)/ NFAC."*

2. All the grounds raised by the revenue are interrelated and interconnected and relates to challenging the order of Ld. CIT(A) in granting deduction u/s 80IB of the Act to the assessee. Therefore we have decided to adjudicate these grounds through the present consolidated order.

3. We have heard the counsels for both the parties, perused the material placed on record, judgments cited before us and also the orders passed by the revenue authorities. From the records, we noticed that assessee being a partnership firm is engaged in the business of manufacture of tin cans and accessories at its factory at Kathua, Jammu, and had set up its business and started manufacturing activity carried on at its factory at Kathua from A.Y 2012-13. However, the assessment for A.Y 2013-14 was completed by disallowing the deduction claimed by the assessee u/s 80IB of the Act. Therefore for year under consideration the AO relied upon the proceedings in A.Y 2013-14, and disallowed the deduction u/s 80IB of the Act for the year under consideration as well.

4. However, on appeal, Ld. CIT(A) allowed the deduction u/s 80IB of the Act and the operative portion of the order of Ld. CIT(A) is reproduced herein below:

*5.1. Grounds No. 1 to 4 of the present appeal raised by the appellant are in respect of the action of the AO in passing the assessment order u/s. 143(3) of the Act and the appellant has contended that the AO had drawn the conclusion for disallowance towards deduction claim by the assessee U/s. 80IB in Para 5.12 of his order that the claim of deduction U/s. 801B of the IT Act was not correct and has been disallowed for not fulfilling the conditions as stipulated U/s. 80IB(4) of the IT Act for AY 2013-14 and for the year under consideration i.e. AY 2014-15..*

*The AO's finding and conclusion for making disallowance of the deduction claimed u/s.80IB was mainly on the ground that condition stipulated U/s. 80IB were not fulfilled in Preceding Asst. Year 2013-14 as well as in the year under consideration.*

*5.2 Before concluding the issue, it is imperative to quote the case laws involved in the similar kind of the matter involved and the case laws are discussed as below.,*

*1. CIT v. Jolly Polymers, 342 ITR 87 (Guj.)*

*The Hon'ble Gujarat High Court in the case of CIT v. Jolly Polymers, 342 ITR 87 (Guj.) stated that in order to qualify for deduction under Section 80IB(4) of the Act, one of the essential requirement is that the industrial undertaking should have begun to manufacture or produce articles or things on or prescribe date (i.e. 31.03.2012). It was held that where the assessee had not even applied for a factory license before prescribe date, the necessary condition under Section 801B was not fulfilled. However, where application for license was already made before prescribe date, but license was obtained shortly thereafter, such lapse must be viewed as purely technical, and it would not come in way of grant of deduction under Section 80IB.*

*1. In the case Addl. CIT v. Southern Structurals Ltd. [1977] 110 ITR 164 (Mad.) it was highlighted that manufacture or*

*production of articles must be in some commercial sense for allowability of Deduction U/s. 80IB.*

*1. R.M. Chemicals Private Limited Indore Vs Asstt. Commissioner of Income Tax 3(1), Indore ITA No.111/Ind/2012 - Dt. 11.05.2012*

*The assessee had filed an appeal aggrieved by the Assessment order dated 9th December 2011 on the ground that the learned CIT(A) erred in maintaining the disallowance of Rs.6,63,956/-made u/s 80IB of the Act by holding assessee failed to comply with the condition for claiming the deduction.*

*For claiming deduction u/s 80IB of the Act, as per sub-section (2), the any industrial undertaking has to fulfil the conditions mentioned in the section. As per sub-clause (iii) the article so manufactured should not be in the list of the Eleventh Schedule and the product should be from a small-scale industrial undertaking or an industrial undertaking referred to in sub-section (4). On Perusal of record, undisputedly, from the inception stage itself, the assessee was registered as a small-scale industry by the Director of Industries on 26.6.1995 (page 32 of the paper book) and continued as such as is evident from acknowledgment dated 15.4.2010 (paper book page 52), therefore this condition of the section is also satisfied by the assessee.*

*In view of these facts, the assessee is eligible for deduction u/s 80IB of the Act. The appeal of the assessee is allowed.*

*1. M/S. Mahaveer Calyx, Bangalore vs Department Of Income Tax I.T.A. No.153 & 998/Bang/2011 31.08.2012 ITAT BANGALORE Dt.*

*We are of the view that the learned CIT(A) has rightly placed reliance on the decisions of the Hon'ble Apex Court in the cases of Petron Engineering Construction (P) Ltd. reported in 175 ITR 523, Pandian Chemicals Ltd. reported in 262 ITR 278, N.C. Budharaja & Co. reported in 204 ITR 412, IPCA Laboratories Ltd. reported in 266 ITR 521 to arrive at the view that the tax incentive by way of deduction. 80 IB of the Act is predominantly for the purpose of augmenting affordable dwelling and ought to be interpreted in that light. In this view*

*of the matter, the incentive provisions must be construed in a manner which advances the object and intention of legislature. The fact that the assessee has obtained approval for the housing project cannot be lost sight of. As for the excess area constructed, as rightly held by the learned CIT(A), it is for the BBMP to look into the violations if any in the construction of the housing project. That however does not authorize the Assessing Officer to hold that the assessee has not got approval for the housing project OR that the conditions laid down in section 80 IB (10) stated violated. In view of the facts and circumstances of the case as discussed above, we are of the considered opinion that the orders of the learned CIT(A) for both Assessment Years 2007-08 and 2008-09 granting the assessee deduction under section 80 IB of the Act is in ITA Nos. 153 & 998/Bang/11 accordance with law and on a proper appreciation of the facts of the instant case of the assessee and therefore finding no need for interference therein, confirm the orders of the learned CIT(A).*

### *5.3. Decision*

*5.3.1 I have perused the impugned order of assessment carefully. The AO in para 5 of his order of AY 2014-15, has raised question on fulfilment of condition laid down in the section 80IB regarding claiming deduction of 80IB and also drawn reference to the Assessment order of AY 2013- 14 wherein deduction claim U/s. 801B was denied on non-fulfilment of condition u/s. 80IB(4) of the Act.*

*5.3.2 In present proceedings the appellant had provided all the requisite details/documents along with detailed explanation establishing the fulfilment of condition for claiming the deduction U/s. 80IB. Further as per the submissions made it is seen that the appellant's industrial unit in the state of J & K is entitled to deduction as per Sec.801B (4) as it has begun manufacturing of articles or things before end of the financial year on 31.03.2012. Also the industrial unit at Kathua, Jammu is engaged in manufacture or production of any article or thing specified in Part 'C' of the Thirteenth Schedule and the appellant as per law is entitled to deduction u/s. 80IB(4) of the I.T. Act 1961. The details/explanations furnished by the appellant were perused*

*and found in order with respect to the eligibility for claiming the deduction.*

*5.3.3 Further with respect to the Assessment Order of AY 2013-14, the appeal filed by the assessee before the Hon'ble ITAT was statistically allowed after satisfying preliminary condition of allowability of Deduction U/s. 80IB vide order dt. 31.01.2024 with direction to provide the supporting documents before CIT (A) as it failed to provide during the CIT Appellate proceedings. The details/documents filed before Hon'ble ITAT for AY 2013-14 were also furnished before me relating to the commencement of the production before the specified date i.e. 31.03.2012. The said details are taken into consideration while adjudicating this appeal.*

*5.3.4 On going through the detailed submission furnished before me especially the Various Copies of the Statutory approvals as discussed in the Para 4.2 were perused and found to be inline with the provisions of the Section 801B of the Act and it is clear that all the conditions mentioned in Sec. 801B(2) for allowability the deduction u/s. 80IB of the Act are duly fulfilled.*

*5.3.5 On the basis of the above discussion I arrive at the conclusion that AO incorrectly disallowed the claim of deduction to the appellant, in facts and circumstance of the case and in law the appellant is eligible for deduction u/s. 80IB of the Act.*

*5.3.6 Ground No. 1 to 4 relate to claim of deduction for AY 2014-15 u/s. 80IB of the Act which is allowed in favour of the appellant as per the claim in the ITR, as per the above discussions and the case laws relied.*

*5.3.7 Ground No. 5 relate to addition of Rs. 31,631/- in the value of Closing stock is not pressed upon the appellant, accordingly the said addition is upheld and decided against the appellant.*

*5.3.8 Ground No. 6 is general in nature therefore need not be separately adjudicated.*

*6. In the result, the appeal of the appellant is partly allowed.*

5. After having heard the parties at length, we found that AO while disallowing the deduction claimed by the assessee u/s 80IB of the Act, solely relied upon the decision for A.Y 2013-14. However in the proceedings for the year under consideration, assessee had provided requisite details / documents along with the detailed explanation establishing the fulfilment of condition for claiming deduction u/s 80IB of the Act. It was proved on record that assessee's industrial unit in the state of Jammu & Kashmir was entitled to claim deduction u/s 80IB(4) of the Act as it had begun manufacturing of article or things before the end of financial year on 31.03.2012. It has also been proved that the industrial unit at Kathua, Jammu was also engaged in manufacturing or production of articles or things specified in Part-C of the 13 Schedule and thus assessee as per law was found entitle to deduction u/s 80IB(4) of the Act. Ld. CIT(A) had perused and examined the details / explanations furnished by the assessee and found the same to be in order with respect to allowability of the assessee's for claim for deduction.

6. It is also important mention that for A.Y 2013-14 the Coordinate Bench of ITAT had allowed the appeal of the assessee for statistical purposes with a direction to provide supporting documents before Ld. CIT(A) and thus as per the said directions the assessee had also furnished required documents to demonstrate the commencement of the production before the specified date i.e 31.03.2012 and

after considering the said details, the same were found in order and the deduction u/s 80IB of the Act was also allowed for A.Y 2013-14 as well for the year under consideration. The assessee had furnished various copies of the statutory approvals and they were found to be in line with the provisions of Sec. 80IB of the Act. Therefore assessee was found eligible for deduction u/s 80IB of the Act. Even no new facts or circumstances have been placed on record before us in order to controvert or rebut the findings so recorded by Ld. CIT(A). Therefore, we see no reasons to interfere into or to deviate from the lawful findings so recorded by Ld. CIT(A). Hence, the grounds raised and by the revenue stands dismissed.

7. In the result, the appeal filed by the revenue stands dismissed.

Order pronounced in the open court on 29/01/2026

Sd/-  
**(BIJAYANANDA PRUSETH)**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Mumbai:  
Dated: 29/01/2026

*KRK, Sr. PS.*

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Mumbai**