

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER AND
SHRI SANJAY GARG, JUDICIAL MEMBER**

**ITA Nos.7469 & 7470/M/2012
Assessment Years: 2008-09 & 2009-10**

M/s. Tufropes Pvt. Ltd., 812-A, Embassy Centre, Nariman Point, Mumbai – 400 021 PAN: AA ACT 8968M	Vs.	The Assistant Commissioner of Income Tax, Circle 3(3), Aayakar Bhavan, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Vijay Mehta, A.R.
Revenue by : Shri K.L. Kanak, D.R.

Date of Hearing : 01.10.2015
Date of Pronouncement : 11.12.2015

ORDER

Per Sanjay Garg, Judicial Member:

The above titled appeals have been preferred by the assessee against the common order dated 25.09.2012 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment years 2008-09 & 2009-10. Since the facts and issues involved in both the appeals are identical in nature, hence the same are taken together and disposed of with this common order. First we take up ITA No.7469/M/2012 for A.Y. 2008-09.

ITA No.7469/M/2012 for A.Y. 2008-09

2. The main ground raised by the assessee in this appeal is against the denial of deduction, in respect of income from interest and commission income aggregating to Rs.6,14,165/-, made by the Assessing Officer (hereinafter referred to as the AO) under section 80IB.

3. The brief facts of the case are that the assessee is engaged in the business of manufacturer of HDPE/PP Rope. The AO observed that the assessee had claimed deduction under section 80IB of Rs.6,14,165/- on account of income from interest and commission income. The AO disallowed the said deduction on the ground that the same was not derived from the business activity. Being aggrieved, the assessee went in appeal before the Ld. CIT(A).

4. The Ld. CIT(A), relying upon his own decision in the case of the assessee for A.Y. 2007-08, upheld the findings of the AO. Aggrieved by the decision of the Ld. CIT(A), the assessee has come in appeal before us.

5. We have heard the rival contentions and have also gone through the records. The Ld. A.R. of the assessee has fairly agreed that so far as the interest income is concerned, the same can not be said to have been derived from manufacturing activity of the assessee in view of the decision of the Hon'ble Supreme Court in the case of "Liberty India vs. CIT" (2009) 317 ITR 218 (SC). He however submitted that the amount claimed as commission income, in fact, was the refund of the freight charges paid to the shipping agencies. The freight charges was the expenditure incurred in the manufacturing process and the refund of the same was just the reduction of the expenditure not as an income from new or any other source. Both the Ld. representatives of the parties have submitted that this contention needs examination/verification at the hands of the AO.

6. In view of the above submissions, we restore the matter back to the file of the AO with a direction to examine/verify the above contentions of the assessee in respect of commission income and decide the issue afresh as per law after affording reasonable opportunity to the assessee of being heard and submit the necessary documents etc.

ITA No.7470/M/2012 for A.Y. 2009-10

7. Since the facts and issue involved in this appeal are identical, hence in view of our observations made above in ITA No.7469/M/2012 for A.Y. 2008-09, the same are decided accordingly.

8. In the result, both the appeals of the assessee are treated as partly allowed for statistical purposes.

Order pronounced in the open court on 11.12.2015.

Sd/-
(N.K. Billaiya)
ACCOUNTANT MEMBER

Sd/-
(Sanjay Garg)
JUDICIAL MEMBER

Mumbai, Dated: 11.12.2015.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.