

**आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ 'बी' मुंबई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, MUMBAI**

**श्री राजेन्द्र, लेखा सदस्य, एवं श्री अमरजीत सिंह, न्यायिक सदस्य, के समक्ष**  
**BEFORE SHRI RAJENDRA, AM AND SHRI AMARJIT SINGH, JM**

आयकर अपील सं/ I.T.A. No.2806/Mum/2016  
(निर्धारण वर्ष / Assessment Year: 2010-11)

Asst. Commissioner of Income Tax 16(3) Room No.446, 4 <sup>th</sup> Floor, Aayakar Bhavan, Mumbai - 400020	<b>बनाम/</b> Vs.	M/s. Majmudar & Co. 601/604, Naman Centre, A Wing, G-31, G Block, Bandra Kurla Complex, Bandra, Mumbai – 400028
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAAPM4161C		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Revenue by:	Shri N. P. Singh (CIT – DR)	
Assessee by:	Shri Ravi S. Raghavan	

सुनवाई की तारीख / Date of Hearing: 28.11.2016  
घोषणा की तारीख /Date of Pronouncement: 15.02.2017

**आदेश / ORDER**

**PER AMARJIT SINGH, JM:**

The revenue has filed the present appeal against the order dated 15.01.2016 passed by the Commissioner of Income Tax (Appeals) 7, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2010-11.

2. The revenue has raised the following grounds:-

- “1. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in deleting the disallowance made by the AO amounting to Rs.6,55,85,021/- on account of deduction claimed u/s.10B of the I.T.Act, 1961.*
2. *The appellant prays that the order of CIT(A) on the above grounds be set aside and that of the Assessing Officer be restored.”*

3. The brief facts of the case are that the assessee filed its return of income on 01.12.2011 declaring total income to the tune of Rs.3,57,00,536/-. The return was processed u/s.143(1) of the Income Tax Act, 1961 ( in short “the Act”). Thereafter, the case was selected for scrutiny. Therefore, the notices u/s.143(2) and 142(1) of the Act were issued and served upon the assessee. The assessee was an advocate and solicitor firm. The assessee’s source of income consists of income from business and profession. At the time of scrutiny, it was found that the assessee claimed the exemption u/s.10B of the Act of Rs.6,55,85,021/-. Since the Assessing Officer was of the view that the exemption has wrongly been claimed therefore the Assessing Officer declined the claim of exemption u/s.10B of the Act and the income of the assessee was assessed to the tune of Rs.10,12,85,557/-. Feeling aggrieved the assessee filed the appeal before the CIT(A) who allowed the said claim, therefore the revenue has filed the present appeal before us.

**ISSUE NO.1:-**

4. Under this issue the revenue has challenged the deletion of the disallowance made by the Assessing Officer amounting to Rs.6,55,85,021/- on account of deduction claimed u/s.10B of the Act. At the very outset the

learned representative of the department has argued that the CIT(A) has wrongly allowed the claim of Rs.6,55,85,021/- u/s.10B of the Act, therefore in the said circumstances the order passed by the CIT(A) is wrong against law and facts and is liable to be set aside. However, on the other hand the learned representative of the assessee has argued that the CIT(A) has rightly allowed the claim and also argued that the case of the assessee has duly been covered by the assessee's own case in ITA No. 6604/Mum/2012 and ITA Nos.3063 to 3067/Mum/2012 for the A.Y.2004-05 to 2008-09 dated 19.08.2016, Hon'ble Income Tax Appellate Tribunal, Mumbai 'B' Bench. Therefore, in the said circumstances, the CIT(A) has passed the order in accordance with law which is not require to be interfere with at this appellate stage. Before going further, it is necessary to advert the finding of the CIT(A) on record"-

“4.2 I have carefully considered the facts of the case, ground of appeal and submissions made by the appellant. I have also gone through the various orders referred by the AO and Ld. AR. The assessee had filed appeal before the Ld. CIT(A)-2 on the similar issue for A.Ys.2004-05, 2005-06, 2006-07, 2007-08, 2008-09 and 2009-10. Copies of the orders of the Ld. CIT(A)-2, Mumbai for various years have been enclosed with the written submission. The appeals have been allowed for different years. The Ld. CIT(A)-2 in appeal No.CIT(A)-2/IT/210/2011-12 vide order dated 23.08.2012 for A.Y.2009-10 has allowed claim of deduction u/s.10B of Rs.15,98,15,278/-. The Ld. CIT(A) has analysed the facts of

the case and relied on various decisions which are given in his above mentioned orders. The factual situation of the present appeal is similar to the facts of the above assessment years. Hence, in light of the details submitted by the assessee and following the decision given by the Ld. CIT(A)-2 in earlier years, the ground is allowed.”

5. On appraisal of the above mentioned order, it is quite clear that the CIT(A) passed the order on the basis of decision of the another CIT(A) in the assessee’s own case for the A.Y.2004-05 to 2009-10 by virtue of order dated 23.08.2012. Subsequently, the matter went up before the Hon’ble Income Tax Appellate Tribunal and the Hon’ble Income Tax Appellate Tribunal confirmed the said deletion in ITA No. 6604/Mum/2012 and ITA Nos.3063 to 3067/Mum/2012 for the A.Y.2004-05 to 2008-09 dated 19.08.2016. No distinguishable facts have been placed on record before us. No factual material contrary to the finding of the Hon’ble Income Tax Appellate Tribunal has been produced. The facts and circumstances of the case are quite same by which the appeal has been decided by the Hon’ble Income Tax Appellate Tribunal. In view of the said circumstances and by honoring the judgment of co-ordinate bench, we are of the view that the CIT(A) has passed the order judiciously and correctly which is not required to be interfere with at this appellate stage.

6. In the result, the appeal filed by the **revenue is hereby ordered to be Dismissed.**

Order pronounced in the open court on 15<sup>th</sup> February, 2017.

Sd/-

Sd/-

(RAJENDRA)

(AMARJIT SINGH)

लेखा सदस्य / ACCOUNTANT MEMBER

न्यायिक सदस्य/JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated :15<sup>th</sup> फरवरी, 2017

MP

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

**आदेशानुसार/ BY ORDER,**

सत्यापित प्रति //True Copy//

**उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai**