

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

BEFORE SHRI D.K. RAO, AM AND SHRI RAVISH SOOD, JM

आयकर अपील सं./ I.T.A. No. 2840/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2007-08,)

Nilesh S. Barde & Co. 320, Corporate Avenue, Wing-A, Sonawala Road, Goregaon-E Mumbai – 400 063.	बनाम/ Vs.	ITO 24(3)(2) C-11, 7 th Floor, Pratyakshakar Bhavan, BKC, Bandra-E, Mumbai – 400 051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAGPB9571K		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

आयकर अपील सं./ I.T.A. No.2841/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2010-11,)

Nilesh S. Barde & Co. 320, Corporate Avenue, Wing-A, Sonawala Road, Goregaon-E, Mumbai – 400 063.	बनाम/ Vs.	ITO 24(3)(2) C-11, 7 th Floor, Pratyakshakar Bhavan, BKC, Bandra-E, Mumbai – 400 051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAGPB9571K		
(Revenue)	:	(Respondent)

आयकर अपील सं./ I.T.A. No. 2842/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2011-12,)

Nilesh S. Barde & Co. 320, Corporate Avenue, Wing-A, Sonawala Road, Goregaon-E, Mumbai – 400 063.	बनाम/ Vs.	ITO 24(3)(2) C-11, 7 th Floor, Pratyakshakar Bhavan, BKC, Bandra-E, Mumbai – 400 051
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. AAGPB9571K		
(अपीलार्थी /Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by	:	Shri Deepak Tralshawala
प्रत्यर्थी की ओर से/ Respondent by	:	Shri D. Randhir Gupta
सुनवाई की तारीख / Date of Hearing	:	19/09/2016
घोषणा की तारीख / Date of Pronouncement	:	30.11.2016

आदेश / ORDER

PER RAVISH SOOD, JUDICIAL MEMBER :

The present appeals filed by the assessee for A.Y. 2007-08, 2010-11 and 2011-12 involving common issues are directed against the consolidate order dated 30.01.2016 passed by the CIT(A) – 42, which arises from the respective orders passed by the AO u/s 143(3) of the Income Tax Act, 1961, (for short ‘Act’).

2. The grounds of appeal raised by the assessee in A.Y. 2007-08 are reproduced as under:

(I). A.Y. 2007- 08

“1. On the facts and in the circumstances of the case and in law, the learned commissioner of Income Tax (Appeals) – 41 Mumbai erred in sustaining the order of Income Tax Officer 24(3)(2) Mumbai and

maintained the disallowance of deduction claim u/s 10B of Income Tax Act amounting to Rs. 32,12,015/-.

2. On the facts and in the circumstances of the case and in law the said C.I.T. Appeal was not justified the deduction in denying the claim u/s 10(B) although the unit was registered with STPI.

3. On the facts and in the circumstances of the case and in law the appellant stakes the claim u/s 10A of Income Tax Act amounting Rs. 32,12,015/-. The same is to be allowed.

4. The appellant craves leaves to add to, alter and/amend or any of the forgoing grounds of appeal.

5. The appellant therefore pray to your honour to allow the deduction/s 10B of Income Tax and/or 10A of Income Tax Act of Rs. 32,12,015/-.”

3. The brief facts of the case are that the assessee who is engaged in the business of export of Computer Software and I.T. enabled services, claiming to be a hundred percent Export Oriented Undertaking (for short ‘EOU’) exporting Software to one M/s. Quill Corporation, USA, had filed its original return of income declaring total income of Rs. 1,15,281/- as on 08.10.2007 which was

processed as such u/s 143(1) of the 'Act'. Thereafter, the AO acting on the basis of the assessment framed u/s 143(3) vide his order dated 11.02.2013 for A.Y. 2010-11, wherein the claim of exemption of Rs. 1,30,79,338/- so raised by the assessee u/s 10B in the said year was disallowed for the reason that the assessee was not having necessary approval letters/documents from the Board so appointed by the Central government in this behalf, therein certifying that the assessee concern was a "hundred percent export oriented undertaking", as mandatorily required u/s 10B of the 'Act', therein proceeded with and reopened the case of the assessee for the year under consideration and issued a Notice u/s 148 of the 'Act', dated 26.03.2013, recording the following "reasons to believe":-

"The assessment for A.Y. 2010-11 was completed u/s 143(3) on 11.02.2013 by disallowing claim of exemption of Rs. 1,30,79,338/- u/s 10B of the I.T. Act, 1961 as the assessee was not having necessary approval letter/documents from the Boards being 100 percent export-oriented undertaking for his proprietary firm M/s. Nilesh Barde & Co. as required by clause (iv) of Explanation 2 of section 10B of the I.T. Act, 1961. In the return of income of A.Y. 2007-08 also, filed on 28.10.2007 declaring total income of Rs. 1,15,261/- the assessee claimed exemption u/s 10B of Rs. 32,12,015/- being 100 percent export oriented

undertaking. This is the failure on the part of the assessee to disclose fully and truly all material facts necessary for his assessment for that assessment year.

Therefore, I have reason to believe that income to the extent of Rs. 32,12,015/- has escaped assessment within the meaning of provisions of section 147 of the I.T. Act and accordingly, the case of the assessee is required to be reopened by issue of notice u/s 148 of the Act so as to reassess the assessee's correct income for the A.Y. 2007-08."

4. The assessee in compliance to Notice u/s 148 of the 'Act' filed a letter with the A.O on 14.05.2013, therein requesting that its earlier return of income filed on 08.10.2007 may be treated as the return of income filed in compliance to Notice u/s 148, which request of the assessee was accepted and acted upon as such by the AO who issued Notice(s) u/ss. 143(2) and 142(1) of the 'Act' to the assessee.

5. That during the course of the assessment proceedings the AO observing that as the assessee despite having been afforded sufficient opportunity to place on record the necessary approval as that of being a 100% Export Oriented Undertaking by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by Section 14 of the Industries

(Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that Act, had failed to do so, it could therefore safely be concluded that the assessee was not a “hundred percent export oriented undertaking” as was statutorily required as per the mandate of Clause (iv) of Explanation 2 of Section 10B of the ‘Act’. The AO pursuant to his observations therein called upon the assessee to show cause as to why his claim towards deduction of Rs. 32,12,015/- u/s 10B may not be disallowed in the absence of the requisite approval from the Board as required by Clause (iv) of Explanation 2 of section 10B. The assessee thereafter submitted before the AO that its concern i.e. M/s. Nilesh S. Barde & Co. was a registered unit under the Software Technology Park of India (for short ‘STPI’) and had received letter of permission vide reference No. STPI/MUM/VII /(A)/1239/ 2005(11)//7534, dated 07.11.2005 and was a 100% Export Oriented Unit set up under the STP scheme for the development of Computer Software and I.T. enabled services. The assessee further submitted before the A.O that its unit was granted the status of 100% Export Oriented Unit, as defined in the Ministry of Commerce Notification No. 33/RE/92-97, dated 22.03.1994, on Software Technology Parks. It was thus in the backdrop of the aforesaid facts claimed by the assessee that its registration with the STPI, therein *ipso facto* satisfied the requirement of the approval as was required under Clause (iv) of Explanation 2 of Section 10B. The AO

however being of the view that as per the mandate of Clause (iv) of Explanation 2 of Section 10B, the approval was required to be granted by the Board, and it was nowhere provided that an approval/permission under the Software Technology Parks (STP) scheme would be sufficient to make an assessee eligible as being a “hundred percent export oriented undertaking” for claiming of deduction u/s 10B of the ‘Act’, thus rejected the said claim of the assessee. Thus to be brief and explicit, the AO not finding favour with the submission of the assessee and holding a very strong conviction that for the purpose of claim of deduction u/s 10B, it was but mandatory for an undertaking to be approved by the Board appointed in this behalf by the Central Government in exercise of powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) and the rules made under this Act, thus finding that the assessee had failed to place on record the requisite approval required by Clause (iv) of Explanation 2 of Section 10B, therefore the assessee could not be held to be a “hundred percent export oriented undertaking” u/s 10B of the ‘Act’, on the said basis rejected the claim of deduction of Rs. 32,12,015/- raised by the assessee u/s 10B and assessed its income at Rs. 33,27,300/-.

6. The assessee being aggrieved with the disallowance of its claim of deduction u/s 10B of the ‘Act’, therein carried the matter in appeal before the

CIT(A), who upheld the order of the A.O and dismissed the appeal of the assessee.

7. The assessee had assailed before us the order of the CIT(A) sustaining the disallowance of deduction of Rs. 32,12,015/- so claimed by the assessee u/s 10B of 'Act'. The Ld. Authorized representative for the assessee (for short 'A.R') at the very outset vehemently submitted that as the assessee was registered with STPI as 100% EOU, therefore the AO had gravely erred by declining the entitlement of the assessee u/s 10B of the 'Act', for the reason that the requirement of obtaining an approval by an assessee from the Board, in order to be categorized as a "hundred percent export oriented undertaking" u/s 10B could not be dispensed with despite the fact that the assessee was registered as a 100% EOU under the STP scheme. It was submitted by the Ld. AR that a provision in taxing statute granting any concession for promoting growth and development should be construed liberally in order to advance the objectives of the provisions and not to frustrate and defeat the very intent of the legislature, as had been so done in the present case by the lower authorities. It was further averred by the Ld. AR that the Inter Ministerial Standing Committee (IMSC) as per Gazette Notification GSR No. 526(E) published in Part II –Sec II of the Gazette of India Extra Ordinary, dated 13th August, 1991, was duly vested with the function of approval of setting up of 100% EOU's for

the units under the STP Scheme. It was further submitted that as to how this statutory authority for granting the status of 100% Export Oriented Unit was delegated to STP, being absolutely an internal matter of the Government, therefore as far as an assessee was concerned, once the STP had approved the unit as a 100% EOU, the assessee should be allowed deduction u/s 10B, provided it complies with the other conditions specified therein. Thus to be brief and explicit, as per the Ld. AR if the approval of 100% EOU by the STPI was not to be construed as being in the nature of an approval by the Board, the same however not being materially different was required to be liberally construed, and the claim of the assessee for deduction u/s 10B could not be denied merely on the basis of technicalities, as the same would go to defeat and frustrate the very intent of the legislature. The Ld. AR in support of his aforesaid contention relied on the judgment of the **Hon'ble High Court of Delhi** in the case of : **CIT Vs Valiant Communication (ITA No. 2002/2010 in Civil Misc. Petition No. 12 of 2013)**, wherein as averred by the Ld. AR, the **Hon'ble High Court** while dealing with the aforesaid case involving facts similar to the case of the present assessee, had though initially rejected the claim of the assessee towards deduction u/s 10B, for the reason that though the aforesaid concern was registered with STP but was not having the approval from the Board appointed on this behalf by the Government, however on a

review petition filed by the assessee had set aside the issue to the file of CIT(A) to consider the alternate contention of the assessee as regards its entitlement towards claim of deduction u/s 10A of the 'Act'. The Ld. AR further in support of its aforesaid contention had thus submitted that even if its claim u/s 10B of the Act was declined for the reason that the registration by the STPI cannot be construed and taken as an approval by the Board, even then in light of the fact that the assessee had obtained and filed a certificate in 'Form 56F', and a letter dated 23.03.2006 from STPI, it was thus duly entitled towards claim of deduction u/s 10A, and in support of his aforesaid contention relied on the following judgements/orders of Hon'ble High Courts and Tribunals :

Sl. No.	Particulars
1	C.I.T. Vs. Technovate Pvt. Ltd. [214 taxman 125 Delhi (Mag)/32 Taxman.Com 290 (Delhi)].
2.	Valiant Communication Ltd. Vs. Department of Income Tax, Delhi [ITA No. 5762 to 5765 (Delhi) 2010.
3.	Quality BPO Services Pvt. Ltd Vs. ACIT , Ahmedabad. [ITA No. 120/Ahd/2012 B Bench ITAT (Ahmedabad)]
4.	C.I.T. Vs. American Data Solution India Pvt. Ltd. [223 Taxman 143 (Karnataka)]
5.	Celoxis Technology Pvt Ltd. Vs. Dy. C.I.T. Circle 1 (1), Pune [I.T.A.T. Pune Bench 'A', ITA/PN/2014; dated 18.03.2015]

That on the other hand the Ld. Departmental representative (for short 'D.R') heavily relied on the orders of the lower authorities and submitted that as the appeal of the assessee was devoid of any merits, the same was therefore liable

to be dismissed at the very threshold. It was further averred by the Ld. DR that for claim of deduction u/s 10B, there was no escape from the statutory requirement of obtaining an approval as of being a “hundred percent export oriented undertaking” from the Board appointed in this behalf by the Central Government in exercise of the powers conferred by Section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made under that act. It was thus submitted by the Ld. D.R that as no such approval from the Board was placed on record by the assessee despite being afforded sufficient opportunities, the only inescapable fact that so emerged before the lower authorities was that the assessee was not having the requisite approval, failing which it was not entitled towards claim of deduction u/s 10B of the ‘Act’. The Ld. D.R further drawing our attention to Page 5 of the CIT(A) order, therein objected to the claim of the assessee for allowing of deduction u/s 10A, for the reason that the requisite ‘Form 56F’ certificate as is statutorily required for entitling an assessee towards claim of deduction u/s 10A of the ‘Act’, had not been furnished by the assessee.

8. We have considered the rival submissions of the either side and perused the relevant material on record including the orders of the authorities below and find that the two fold issues involved in the present appeal lies in a narrow compass, which can be briefly culled out as under:-

- (i) That whether the statutory requirement of an approval by the Board appointed in this behalf by the Central Government in exercise of the powers conferred by section 14 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), and the rules made that Act, for entitling an assessee to claim deduction u/s 10B be dispensed with for the reason that assessee was registered as a 100% EOU with the STPI; AND
- (ii). Alternatively, if the entitlement of the assessee towards claim of deduction u/s 10B fails for the reason that its registration as a 100% EOU under STPI cannot be transposed with the statutory requirement of obtaining approval from the Board for being held as a “hundred percent export oriented undertaking” under Sec. 10B, then whether the assessee would be eligible for raising a claim of deduction u/s 10A of the ‘Act’, or not.

9. That adverting to the first issue, we are of the considered view that as section 10B of the Act is a special provision in respect of newly established hundred percent export oriented undertakings, therein contemplating a special concession in the form of a deduction of profit and gains derived by such undertakings for a specified period, therefore the said concession or rather an exception to the levy of tax, would be required to be strictly construed and the conditions contemplated therein for entitling an assessee to raise a claim under

the said statutory provision, without any escape or reservation have to be strictly complied. We are of the considered view that now when the term “hundred percent export oriented undertaking” which is eligible for claim of deduction u/s 10B, had consciously, purposively and intentionally been defined in clause (iv) of Explanation 2 of section 10B, therefore the requirements contemplated therein have to be strictly complied in order to be eligible for claim of deduction u/s 10B. We are not impressed with the contention of the Ld. AR that registration of an assessee as a 100% EOU with the STPI, despite absence of the specific approval by the Board as required u/s 10B, would still entitle the assessee to claim deduction u/s 10B. We are unable to persuade ourselves to accept the contention of the Ld. AR who had basically in the garb of seeking liberal construing of the statutory requirement, had as a matter of fact called upon us for broadening the scope of definition of “hundred percent export oriented undertaking” as contemplated in section 10B, which we are of the firm belief would lead to distortion of the plain literal interpretation and inescapably frustrate the scope and domain of Sec. 10B. That as per the rule of strict literal interpretation a statutory provision has to be interpreted as per the plain and simple language used therein, and nothing is allowed to be added or subtracted from the same in the garb of giving effect to purposive legislation behind the said enactment, because such a distortion of the scope and gamut of

the statutory provision would be nothing short of rewriting the law, which powers we would not hesitate to say are not vested with us, and lies absolutely within the exclusive domain and province of the legislature. Thus in light of the aforesaid observations, we herein dismiss the ground of appeal No. 1 & 2 so raised by the assessee before us.

10. We now advert to the 'Ground of appeal No. 3' so raised by the assessee before us, and after perusing the facts of the case therein find that the said alternative contention of the assessee that in case if it was to be held that it was not entitled towards claim of deduction u/s 10B, then its entitlement towards claim of deduction u/s 10A should be considered, had earlier also been raised by the assessee before the CIT(A). We find that the alternate contention so raised by the assessee was dismissed by the CIT(A) for the reason that the conditions u/ss. 10A and 10B though they may overlap to some extent, however they do not entirely overlap, coupled with the fact that no material had been placed on record from where the claim of the assessee u/s 10A of the 'Act' could be discerned. Thus to be brief explicit, the claim of the assessee towards deduction u/s 10A was not rejected on the basis of any such finding by the CIT(A) that the assessee was not found to be satisfying the requisite conditions contemplated under the said statutory provision, but rather had been declined for the reason that the assessee had not raised the claim towards

deduction u/s 10A in his return of income, as well as the same was not determinable from the record. We are of the considered view that now when the assessee remaining under a *bonafide* belief that it was duly entitled for claim of deduction u/s 10B, had thus raised such a claim in its return of income, therefore it cannot be expected that he would have alternatively raised another claim u/s 10A also in his return of income. That as regards the observation of the CIT(A) that the entitlement of the assessee is not determinable from the records, we find that the assessee after the dismissal of his appeal by the CIT(A), vide order dated 30.01.2016, therein realizing that he was disentitled for claim of deduction u/s 10B, had therein obtained report u/s 10A of the 'Act' in 'Form 56F', dated 18.05.2016, which is placed at Page 45 – 47 of the 'Paper Book' (for short "APB") filed by the assessee before us. We are of the considered view that in light of all fairness and in the interest of justice, the meritorious entitlement of an assessee towards claim of deduction/concession granted by the legislature in all its wisdom, cannot be declined merely on account of technicalities, as long as the assessee is able to establish that he safely and inescapably falls within the scope, gamut and parameters contemplated under the statutory provision contemplating the said concession. Thus now when the assessee had raised a claim towards deduction u/s 10A which though had been summarily rejected by the CIT(A), we herein restore

the said matter to the file of the AO to verify the entitlement of the assessee towards claim of deduction u/s 10A after taking cognizance of the 'Form No 56F' (supra) as had been so filed before us, and if the assessee is found to have duly satisfied all the requisite conditions therein entitling him towards the claim of deduction under the said statutory provision, the same may therein be allowed. That needless to say, the AO in the course of the set aside proceedings shall afford sufficient opportunity of being heard to the assessee to satisfy his eligibility and entitlement towards claim of deduction u/s 10A of the 'Act', and the assessee shall remain at

a liberty to substantiate his entitlement on the basis of written submissions or leading of further documentary evidence during the course of such set aside proceedings before the A.O.

11. The ground of appeal No. 3 is thus partly allowed for statistical purposes.

12. That the ground of appeal No.4 is general in nature and no specific averment as regards the same had been raised before us, therefore the same is dismissed as not pressed.

13. That the ground of appeal No.5 seeking allowing of deduction u/s 10B and/or Sec. 10A, is disposed of in terms of our observations recorded

hereinabove as regards the grounds of appeal no 1 to 3, and is thus partly allowed for statistical purposes.

14. The appeal of the assessee for A.Y 2007-08, marked as ITA No. 2840/Mum/2016 is partly allowed for statistical purposes in light of our aforesaid observations.

(II). A.Y. 2010-11:

15. The Grounds of appeal raised by the assessee in its appeal for the assessment year 2010-11, marked as ITA NO. 2841/Mum/2016, read as under:-

“1. On the facts and in the circumstances of the case and in law, the learned commissioner of Income Tax (Appeals) – 41 Mumbai erred in sustaining the order of Income Tax Officer 24(3)(2) Mumbai and maintained the disallowance of deduction claim u/s 10B of Income Tax Act amounting to Rs. 1,30,79,338/-

2. On the facts and in the circumstances of the case and in law the said C.I.T. Appeal was not justified the deduction in denying the claim u/s 10(B) although the unit was registered with STPI.

3. *On the facts and in the circumstances of the case and in law the appellant stakes the claim u/s 10A of Income Tax Act amounting Rs. 1,30,79,338/-. The same is to be allowed.*
4. *The appellant craves leaves to add to, alter and/amend or any of the forgoing grounds of appeal.*
5. *The appellant therefore pray to your honour to allow the deduction/s 10B of Income Tax and/or 10A of Income Tax Act of Rs. 1,30,79,338/-”*

16. That adverting to the ‘Ground of appeal No(s).1 and 2’, the Ld. A.R. had brought to our notice that the identical issue was involved in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, which factual position had been admitted by the Ld. D.R. Thus in light of the aforesaid facts, we adjudicate the present issue in terms of our order passed in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, and thus on the same terms and reasoning adopted by us, therein dismiss the said grounds of appeal.

17. That adverting to the ‘Ground of appeal No.3’, the Ld. A.R. had brought to our notice that the identical issue was involved in the appeal of the assessee

for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, which factual position had been admitted by the Ld. D.R. Thus in light of the aforesaid facts, we adjudicate the present issue in terms of our order passed in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, and thus on the same terms and reasoning adopted by us, therein partly allow the same for statistical purposes.

18. That the ground of appeal no. 4 is general in nature and no specific averment as regards the same had been raised before us, therefore the same is dismissed as not pressed.

19. That the ground of appeal No.5 seeking allowing of deduction u/s 10B and/or Sec. 10A, is disposed of in terms of our observations recorded hereinabove as regards the grounds of appeal no 1 to 3, and is thus partly allowed for statistical purposes.

20. That the appeal of the assessee for the A.Y 2010-11, marked as ITA No. 2841/Mum/2016 is thus partly allowed for statistical purposes in light of our aforesaid observations.

(III). A.Y. 2011-12:

21. The Grounds of appeal raised by the assessee in its appeal for the

assessment year 2011-12, marked as ITA NO. 2842/Mum/2016, read as under:-

- “1. On the facts and in the circumstances of the case and in law, the learned commissioner of Income Tax (Appeals) – 41 Mumbai erred in sustaining the order of Income Tax Officer 24(3)(2) Mumbai and maintained the disallowance of deduction claim u/s 10B of Income Tax Act amounting to Rs. 1,19,35,245/.*
- 2. On the facts and in the circumstances of the case and in law the said C.I.T. Appeal was not justified the deduction in denying the claim u/s 10(B) although the unit was registered with STPI.*
- 3. On the facts and in the circumstances of the case and in law the appellant stakes the claim u/s 10A of Income Tax Act amounting Rs. 1,19,35,245/-. The same is to be allowed.*
- 4. The appellant craves leaves to add to, alter and/amend or any of the forgoing grounds of appeal.*
- 5. The appellant therefore pray to your honour to allow the deduction u/s 10B of Income Tax and/or 10A of Income Tax Act of Rs. 1,19,35,245/.”*

22. That adverting to the ‘Ground of appeal No(s).1 and 2 ’, the Ld. A.R. had brought to our notice that the identical issue was involved in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, which factual position had been admitted by the Ld. D.R. Thus in light of the aforesaid facts, we adjudicate the present issue in terms of our order passed in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, and thus on the same terms and reasoning adopted by us, therein dismiss the said grounds of appeal.

23. That adverting to the ‘Ground of appeal No.3 ’, the Ld. A.R. had brought to our notice that the identical issue was involved in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, which factual position had been admitted by the Ld. D.R. Thus in light of the aforesaid facts, we adjudicate the present issue in terms of our order passed in the appeal of the assessee for A.Y. 2007-08, marked as ITA No. 2840/Mum/2016, and thus on the same terms and reasoning adopted by us, therein partly allow the same for statistical purposes.

24. That the ground of appeal no. 4 is general in nature and no specific averment as regards the same had been raised before us, therefore the same is dismissed as not pressed.

25. That the ground of appeal No. 5 seeking allowing of deduction u/s 10B and/or Sec. 10A, is disposed of in terms of our observations recorded hereinabove as regards the grounds of appeal no 1 to 3, and is thus partly allowed for statistical purposes.

26. That the appeal of the assessee for the A.Y 2011-12, marked as ITA No. 2842/Mum/2016 is thus partly allowed for statistical purposes in light of our aforesaid observations.

27. In the result all the three appeals of the assessee for A.Y. 2007-08, 2010-11 and 2011-12, marked as ITA No. 2840-2842/Mum/2016, are partly allowed for statistical purposes, in light of our aforesaid observations.

Order pronounced in the open court on 30.11.2016

Sd/-
D. Karunakara Rao
लेखा सदस्य / Accountant Member

Sd/-
(Ravish Sood)
न्यायिक सदस्य / Judicial Member

मुंबई Mumbai; दिनांक Dated : 30 .11.2016

Sr.PS Biswajit

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 - concerned
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai

6. गार्ड फाईल / Guard File

आदेशानुसार/ BY ORDER,

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