

आयकर अपीलीय अधिकरण पुणे न्यायपीठ “ऐ” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “A”, PUNE

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री प्रदीप कुमार केडिया, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI PRADIP KUMAR KEDIA, AM

ITA Nos. 1695 and 1696/PN/2012
Assessment Years: 2006-07 and 2007-08

M/s. Galaxy Developers,
Empire Estate, CTS No.4510/1,
Chinchwad, Pune – 411019
PAN: AA EFG9930D

.... Appellant

Vs.

The Dy. Commissioner of Income Tax,
Central Circle 1(1), Pune

.... Respondent

ITA Nos.1697 and 1698/PN/2012
Assessment Years: 2006-07 and 2007-08

The Dy. Commissioner of Income Tax,
Central Circle 1(1), Pune

.... Appellant

Vs.

M/s. Galaxy Developers,
Empire Estate, CTS No.4510/1,
Chinchwad, Pune – 411019
PAN: AA EFG9930D

.... Respondent

ITA No.2464/PN/2012
Assessment Year: 2009-10

M/s. Galaxy Developers,
Empire Estate, CTS No.4510/1,
Chinchwad, Pune – 411019
PAN: AA EFG9930D

.... Appellant

Vs.

The Asst. Commissioner of Income Tax,
Central Circle 1(1), Pune

.... Respondent

ITA No.88/PN/2013
Assessment Year: 2009-10

The Asst. Commissioner of Income Tax,
 Central Circle 1(1), Pune

.... Appellant

Vs.

M/s. Galaxy Developers,
 Empire Estate, CTS No.4510/1,
 Chinchwad, Pune – 411019

.... Respondent

PAN: AA EFG9930D

Assessee by : Shri Vipin K. Gujrathi
 Department by : Shri Rajesh Damor

सुनवाई की तारीख / Date of Hearing: 10.09.2015	घोषणा की तारीख / Date of Pronouncement: 30.11.2015
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आदेश / ORDER

PER SUSHMA CHOWLA, JM :

Out of this bunch of appeals, three cross-appeals filed by the assessee and the Revenue are against the separate orders of CIT(A)-I, Pune, dated 11.01.2012, 11.01.2012 and 02.08.2012 relating to assessment years 2006-07, 2007-08 and 2009-10 respectively, against respective orders passed under section 143(3) of the Income Tax Act, 1961 (in short “the Act”).

2. All the appeals relating to the same assessee on similar issues were heard together and are being disposed of by this consolidated order for the sake of convenience.

3. In ITA No.1695/PN/2012, the assessee has raised the following common grounds of appeal:-

- 1) *On the facts and in the circumstances of the case and in law the honourable CIT(A) erred in confirming the disallowance of deduction claimed under section 80IB(10) in respect of Sector No.5 without appreciating the fact and the legal position that the amendment brought in by Finance Act, 2004 is applicable prospectively to the housing project and the building plan of which is approved after 1st April 2005. The appellant hereby prays that the deduction claimed under section 80IB(10) in respect of profits derived from Sector No.5 may please be granted.*
- 2) *The honourable CIT(A) accepted the contention of the appellant that the appellant firm was constructing two independent and separate projects on Sector No.2 & Sector No.5. The honourable CIT(A) allowed the relief under section 80IB(10) in respect of the residential portion of Sector No.2. The appellant had paid taxes on the profits Rs.1,04,77,435/- in respect of profits derived from shops/commercial establishment included in Sector commercial portion of the project in respect of which the appellant firm had paid taxes on the ground that the appellant has not made the claim in the return of income or before the assessing officer and also not in the appeal memo in form No.35. The honourable CIT(A) failed to appreciate the fact that the Bombay High Court judgment was not available at the time of completion of the assessment. The appellant hereby prays that the deduction of Rs.1,04,77,435/- may please be granted.*
- 3) *On the facts and in the circumstances of the case and in law the honourable CIT(A) erred in confirming the disallowance of deduction claimed under section 80IB(10) in respect of Sector No.5 even though the appellant has completed the construction of substantial portion of the Sector No.5 - commercial as well as residential. The appellant hereby prays that the deduction may please be granted in respect of the residential as well as the commercial portion of the project on Sector No.5.*
- 4) *On the facts and in the circumstances of case and in law the honourable Commissioner of Income Tax (Appeals) Pune erred in not allowing the proportionate deduction under section 80IB(10) in respect of the project completed on Sector No.5 before 31st March 2008. The appellant hereby prays that the proportionate deduction in respect of project completed before 31st March 2008 may please be granted.*
- 5) *The appellant hereby reserves the right to add, raise, delete any additional ground/grounds before the completion of the hearing.*

4. In ITA No.1697/PN/2012, the Revenue has raised the following common grounds of appeal:-

1. *The order of the learned Commissioner of Income-tax (Appeals) is contrary to law and to the facts and circumstances of the case.*
2. *The learned Commissioner of Income-tax (Appeals) grossly erred in holding the buildings on sector 2 & sector 5 as two separate projects and allowing the deduction u/s 80IB(10) w.r.t. sector 2.*
3. *For these and such other grounds as may be urged at the time of hearing, the order of the learned CIT(Appeals) may be vacated and that of the Assessing Officer be restored.*

4. *The appellant craves leave to add, alter or amend any or all the grounds of appeal.*

5. The assessee has also raised the following additional ground of appeal in assessment years 2006-07 and 2007-08 :-

"On the fact and in the circumstances of the case and in law the honourable CIT (Appeal) erred in not allowing deduction in respect of the project consisting of 3 buildings which complied with all conditions of section 80IB(10) on stand alone basis in respect of profits derived from the housing project on sector no 5 consisting of building J, K & L. The appellant hereby prays that the deduction in respect of profits derived from project consisting of the said buildings may please be granted."

6. The issue arising in the present appeal is against the deduction under section 80-IB(10) of the Act.

7. Briefly, in the facts of the present case, assessee was a builder and had undertaken project at Chinchwad. The land on which the assessee had constructed the project was initially purchased by a Co-operative Housing Society namely Premier Sahakari Gruh Rachana Sanstha Maryadit, wherein some of the partners of the assessee firm and their family members were the members. The Co-operative Society had purchased the plot from Premier Automobiles Ltd. and got the layout plan sanctioned for the entire plot. As per the layout plan, there were 7 Sectors to be constructed on the said plot of land. The assessee purchased two Sectors i.e. Sector No.2 and Sector No.5 from the Co-operative Housing Society. Each Sector was to be built on an area which was in excess of an acre. Search action under section 132 of the Act was conducted on 14.06.2006 on Sukhwani Group and Survey under section 133A of the Act was carried out on the premises of the assessee on 15.06.2006. The assessee was a partnership firm and 50% of the partners of the firm were from Sukhwani Group. During the course of survey, it was noted that the assessee had plans to develop 33 buildings. However, some of the buildings were completed and possession were handed-over, whereas construction works for buildings N-1 to N-3 with shops had yet to commence on the

date of survey. It was further noted during the course of survey that the project under development had 164 shops, the area of which was in excess of 2000 sq.ft.

8. During the year under consideration, assessee had claimed deduction under section 80-IB(10) of the Act amounting to Rs.6,07,62,867/-. The assessee however, furnished return of income declaring taxable income of Rs.1,39,76,940/- i.e. no deduction under section 80IB(10) of the Act was claimed on the commercial area constructed by the assessee in the said project. The Assessing Officer considered various aspects of the housing project undertaken by the assessee in order to find out whether the assessee was eligible for the claim of the deduction under section 80IB(10) of the Act, which eventually was denied to the assessee. Both the Authorized Representatives at the outset pointed out that the issue raised in the present bunch of appeals is identical to the issue decided by the Tribunal in another bunch of appeals in the case of Padmavati Developers Vs. DCIT & Ors. in ITA Nos.1691 & 1692/PN/2012, relating to assessment years 2006-07 & 2007-08 with Revenue appeals in ITA Nos.1693 & 1694/PN/2012 and appeal of the assessee in ITA No.2463/PN/2012, relating to assessment year 2009-10, order dated 29.05.2015, wherein the said assessee had developed Sector Nos.1 and 7 of the same project as has been developed by the assessee, though the projects developed are Sector Nos.2 and 5 as against Sector Nos.1 and 7 developed by Padmavati Developers. It was fairly conceded by both the Authorized Representatives that the facts of the case are identical to the facts before the Tribunal in the case of Padmavati Developers, wherein the issue has been considered elaborately. It may be put on record that both the Authorized Representatives appearing before the Tribunal in Padmavati Developers (supra) and in the case of the assessee were same. The only difference in the project developed by the assessee was the commercial area developed by the assessee

as against the project of Padmavati Developers, which was residential project vis-à-vis Sector No.2 and Sector No.7 though had certain commercial area to be developed, but the same was not developed up to 31.03.2008. Since the facts of both the cases are identical and for the sake of brevity, we refer to the facts as noted by the Tribunal in the case of Padmavati Developers (supra) along with findings of Assessing Officer and CIT(A). It may also be clarified here that the CIT(A) while passing the appellate order in the case of assessee before us has also referred to the order passed by the CIT(A) in the case of Padmavati Developers (supra). The relevant paras of the order of Tribunal are as under:-

“7. Briefly, in the facts of the present case, assessee was a builder and had undertaken project at Chinchwad. The land on which the assessee had constructed the project was initially purchased by a Co-operative Housing Society namely Premier Sahakari Gruh Rachana Sanstha Maryadit, wherein some of the partners of the assessee firm and their family members were the members. The Co-operative Society had purchased the plot from Premier Automobiles Ltd. and got the layout plan sanctioned for the entire plot. As per the layout plan, there were 7 Sectors to be constructed on the said plot of land. The assessee purchased two Sectors i.e. Sector No.1 and Sector No.7 from the Co-operative Housing Society for Rs.3.69 crores. Each Sector was to be built on an area which was in excess of an acre. Search action under section 132 of the Act was conducted on 14.06.2006 on Sukhwani Group and Survey under section 133A of the Act was carried out on the premises of the assessee on 15.06.2006. The assessee was a partnership firm and 50% of the partners of the firm were from Sukhwani Group. During the course of survey, it was noted that the assessee had plans to develop 15 buildings and 20 row houses. However, some of the buildings were completed and possession were handed-over, whereas construction works for buildings P-1 to P-6 had yet to commence on the date of survey. The assessee had plans to develop E, F, G, H, I-1, I-2 buildings in Sector No.1 and few buildings i.e. Q-1, Q-2, Q-3, P-1 to P-6 and 20 row houses in Sector No.7 on the said plot.

8. During the year under consideration, assessee had claimed deduction under section 80-IB(10) of the Act amounting to Rs.3,78,78,880/-. The Assessing Officer noted that the said project had commenced construction prior to 01.04.2004 and as per the provisions of section 80-IB(10) of the Act, it was essential for the assessee to complete the project prior to 31.03.2008. The assessee had filed a completion certificate, according to which also the project was not completed. The Assessing Officer, therefore, sought clarification from PCMC, which clarified that P building and row houses pertaining to this project were not completed by 31.03.2008. The Assessing Officer in consequence thereto, issued show-cause notice to the assessee to justify the claim of deduction under section 80-IB(10) of the Act. In response, the assessee explained that the project named “Empire Estate”

consisted of 15 buildings and 536 flats. It was further pointed out by the assessee that the PCMC had issued completion certificate dated 28th March, 2008 in respect of 6 buildings i.e. E, F, G, H, I-1 & I-2. The completion certificate in respect of Q-1, Q-2 & Q-3 was granted except 4 residential units of the said buildings. In connection with the approval of the plan on 15th December, 2003 i.e. before 31st March, 2004, the Ld. Authorized Representative for the assessee pointed out that in order to consider the eligibility of the housing project, one has to go through the legislative history of the section and the provisions applicable on the assessee. It was further pointed out by the Ld. Authorized Representative for the assessee that section 80-IB(10) of the Act was brought on statute by the Finance Bill, 1999 which was amended year to year. The plea of the assessee before the Assessing Officer was that since the provisions of section 80-IB(10) of the Act were substantive in nature, no retrospective effect of the same could be given. The Assessing Officer, in turn, observed as under :-

“6. The Issue of whether an amended provision is substantive or clarificatory came in the Apex Court in the case of Gold Coin Health Food Pvt. Limited (Civil Appeal No.5065 of 2008). In this case, the issue before the Hon’ble Apex Court was to see whether explanation 4 to section 271(1)(c) substituted by Finance Act 2002 w.e.f. 01.04.2003 is substantive or clarificatory. The Hon’ble Apex Court held that though the effective date as per the amended provision was 01.04.2003 the provision is clarificatory and hence applicable retrospectively.

7. I have carefully considered the assessee’s versions regarding the time limit for completion of the project. The provisions of section 80IB(10) of I.T. Act, 1961 were brought in to the statute to encourage development of Housing projects for the low / middle income group by giving tax incentive for such projects. However, housing project was not defined and there was no clarity in the Act regarding the shopping area in a housing project. By bringing in an amendment on this issue, the purpose for which the legislation was brought in has not changed at all. The amendment is intended to make the position regarding issues like permissible limit of commercial area, built up area time limit for completion clear. Thus, the amendment was brought in to clarify these issues explicitly which otherwise was implied. If the ratios of Hon’ble Apex Court in the case of Gold Coin Health Foods. Pvt. Limited is applied, the amendment brought in to section 80IB(10) is obviously clarificatory in nature and hence has a retrospective effect.”

9. The Assessing Officer thus, held that where the assessee admittedly had not fulfilled the condition for completion of the housing project within time limit prescribed, the assessee was not entitled to the claim of deduction under section 80-IB(10) of the Act. It was further observed by the Assessing Officer that Income Tax Act speaks of the housing project as such and where the Act refers to the entire project and not parts then, the contention of the assessee that project on one of the Sectors was complete, was not relevant for the simple reason that it was part of the project approved by the

authority i.e. PCMC. In order to eligible for deduction under section 80-IB(10) of the Act, as per the Assessing Officer, the entire project had to be completed and since the same had not been completed, the alternative plea of the assessee on this issue was also rejected. The plea of the assessee that it had not claimed deduction on profits of P-1 to P-6 and the row houses was held to be irrelevant by the Assessing Officer. The contention of the assessee that the clause of time limit for completion of the project was not there in the Act at the time of approval of the project, as per the Assessing Officer, was illogical, where the Finance (No.2) Act, 2004 had made very clear that the project approved prior to 31.03.2004 had to be completed by 31.03.2008. Since the project of the assessee was approved prior to 01.04.2004 where the assessee had not fulfilled the condition laid down in the Act to be eligible for the said deduction and hence deduction under section 80-IB(10) of the Act cannot be allowed to the assessee on this account. The claim of the assessee for deduction to the tune of Rs.3,78,78,880/- under section 80-IB(10) of the Act was rejected.

10. Before the CIT(A), the main plank of argument of the assessee was that there was no condition for time limit within which the project had to be completed, since the project of the assessee was approved by the PCMC vide commencement certificate dated 15.12.2003. It was further argued that the provision relevant to section 80-IB(10) of the Act at the relevant time did not provide any time limit within which the project has to be completed and the Finance (No.2) Act, 2004 had specified two conditions from assessment year 2005-06 where the projects were approved before 01.04.2004, the time limit for completion of the projects was fixed upto 31.03.2008 and the projects approved after 01.04.2004 the same had to be completed within four years from the end of the financial year in which the projects was approved. The claim of the assessee before the CIT(A) was that the amendment brought w.e.f. assessment year 2005-06 by Finance (No.2) Act, 2004 was prospective and not retrospective in its operation. In view thereof, the assessee claimed that where the first building plan was approved vide commencement certificate dated 15.12.2003, the provisions of completion would not apply. The assessee further made an alternate plea for pro-rata deduction in view of ratio laid down by the Calcutta Bench of the Tribunal in *Bengal Ambuja Housing Development Ltd. vs. DCIT* in ITA No.1595/Kol/2005 relating to assessment year 2002-03, order dated 24.03.2006 which, in turn, has been followed by the Chennai Bench of the Tribunal in *Arun Excello Foundations Pvt. Ltd. vs. ACIT*, 108 TTJ 71 (Chennai) and Bangalore Bench of the Tribunal in *CIT vs. Brigade Enterprises Pvt. Ltd.*, 119 TTJ 269 (Bangalore).

11. The assessee raised another plea before the CIT(A) that the project located in Sector No.1 and Sector No.7 were not adjacent to each other but were located on the either side of the DP Road and where each project fulfills the conditions laid down in section 80-IB(10) of the Act, both the projects being independent projects were eligible for claim of deduction under section 80-IB(10) of the Act. The assessee claimed that the entire project of Sector No.1 was completed before 31.03.2008 then, even applying the interpretation of the Assessing Officer, the assessee was entitled to the claim of deduction in respect of profits of Sector No.1. The total sales for the said project were Rs.14.41 crores and sales relatable to Sector No.1 were 10.80 crores, against which profit was claimed at Rs.2.84

crores. The Ld. Authorized Representative for the assessee before the CIT(A) filed written submissions along with the prayer for admission of additional evidence in the form of certificate from the Architect and Government Approved Valuer Shri Harshad Ruparel dated 21.10.2009 stating that the projects developed in Sector No.1 and Sector No.7 were separate and independent projects. Further, the contention of the assessee before the CIT(A) was that the said evidence could not be produced before the Assessing Officer due to time constraint. However, the approved plans were available with the Assessing Officer, from which it was discernable that the projects of Sector No.1 and Sector No.7 were separate, so far as deduction under section 80-IB(10) of the Act was concerned. The said additional evidence along with the submissions of the assessee were confronted to the Assessing Officer and remand report was called for. The CIT(A) has reproduced remand report at pages 24 to 26 of the appellate order, in which the Assessing Officer objected to the admission of the additional evidence. It is further stated that there was no merit in the said certificate of the Architect filed by the assessee, wherein Architect had not explained in anyway the reasoning for considering the Sector No.1 and Sector No.7 were separate and independent projects. The Assessing Officer further placed reliance on the project verification report dated 28.03.2008 submitted by the Architect in the office of the DCIT, Central Circle 1(1), under which the said Architect had nowhere considered Sector No.1 and Sector No.2 being two different projects. It was categorically mentioned in the certificate dated 21.10.2009 that the projects constructed on Sector No.1 and Sector No.7 were approved on the same date i.e. 15.12.2003 and under same commencement certificate. The assessee, in reply, placed reliance on the ratio laid down by the Mumbai Bench of the Tribunal in Hiranandani Akvuti JV vs. CIT, 39 SOT 498 (Mum) and Pune Bench of the Tribunal in Opel Shelters Pvt. Ltd. vs. ACIT in ITA No.219/PN/2009 and D.S. Kulkarni & Associates vs. ITO in ITA No.17/PN/2009 for the proposition that no time limit for completion of the project should be construed to be applicable to the assessee as the project commenced in assessment year 2004-05, when there was no time limit available under section 80-IB(10) of the Act for completing the project. The assessee further referred to the certificate from the City Engineer, PCMC dated 24.01.2011 issued to the assessee on their application certifying that the projects approved on Sector No.1 and Sector No.7 are two separate projects. The certificate further stated that the layout of the said plot was sanctioned and the FSI of Sector No.1 and Sector No.7 was granted with reference to the area of the respective plots. It has also been stated that since Padmavati Developers was the power of attorney holder for Sector No.1 and Sector No.7, therefore, the building construction certificate bears one and the same number, however, it was further certified that both the projects were separate and the same have not been considered. The assessee, thus made an application for admission of the additional evidence which, in turn, was forwarded to the Assessing Officer and in the remand proceedings, information was sought by the Assessing Officer from City Engineer, PCMC. In response thereto, the City Engineer informed that this was the only instance wherein such a certification had been granted to a builder and that too on specific request from the said builder. In view thereof, the Assessing Officer was of the view that the claim of the assessee in this regard was absolutely baseless, where the building permission for constructing Sector No.1 and Sector No.7 and development charges for layout sanction for Sector No.1 and Sector No.7 were paid by

the builder to the respective parties of PCMC considering both the Sector No.1 and Sector No.7 as single unified project only.

12. The CIT(A) noted that the total plot area of land situated at Chinchwad, Pune was admeasuring 1,03,884 sq.mtrs. which was purchased by the Co-operative Society from Premiere Automobiles Ltd.. Further, the layout plan divided the entire area into 7 plots being called as "Sector" for which permission was obtained by the said owner from PCMC by order dated 15.12.2003. Out of the above 7 Sectors, the assessee firm obtained development rights in respect of Sector No.1 and Sector No.7. Further, it was noted by the CIT(A) that it was not in dispute that a D.P. Road of 45 mtrs. width was passing through the aforesaid land and Sector No.1 and Sector No.7 were lying on the opposite sides of the D.P. Road and were not facing each other. Another contention raised by the CIT(A) was that the Assessing Officer had accepted in the assessment order that the size of both the plots is in excess of 1 acre i.e. the size of plot of Sector No.1 was 7612.76 sq.mtrs. and plot of Sector No.7 was 13,852.5 sq.mtrs.. The assessee had obtained the first commencement certificate of the building plan vide a common order dated 15.12.2003 for both the Sectors. However, from the details, the CIT(A) observed that in respect of the building to be constructed on both the Sectors, the area calculation including FSI, etc. had been done separately for both the Sectors. The claim of the assessee to that extent was found to be factually correct. Another point noted by the CIT(A) was that during the course of survey conducted at the premises of the assessee on 14.06.2006, it was undisputedly found that the buildings P-1 to P-6 have not even commenced construction. The CIT(A) further observed that the Assessing Officer was satisfied in respect of the fulfillment of all conditions prescribed in section 80-IB(10) of the Act, except for the condition relating to the completion of the project before 31.03.2008 prescribed in clause (a)(i) of section 80-IB(10) of the Act as inserted by the Finance Act (No.2) of 2004. The CIT(A) also noted the objections of the assessee in this regard that on the date of commencement certificate i.e. 15.12.2003, the said condition was not on statute and hence the condition laid down prospectively could not be applied for denying the benefit to the assessee. It was also argued by the assessee that the said amendment introduced w.e.f. 01.04.2005 could not have retrospective application for the projects approved before 01.04.2004. The CIT(A) further noted taking into consideration the alternate plea of the assessee that the housing project developed in Sector No.1 and Sector No.7 could be treated to be independent and in this perspective it was argued by the assessee that entire 5 buildings of Sector No.1 were completed before 31.03.2008 as provided in section 80-IB(10)(a)(i) of the Act and therefore, the deduction relating to the Sector of Rs.2.84 crores should be allowed. Another plea raised before the CIT(A) was that the proportionate deduction in respect of flats completed in the other buildings in Sector No.7 should also be allowed to the assessee.

13. The CIT(A) observed that the assessee had made two claims in respect of the deduction under section 80-IB(10) of the Act. The first claim was that the amendment brought in section 80-IB(10) of the Act relating to the completion of project was not applicable to the assessee as the project was approved for the first time on 15.12.2003 i.e. prior to the said amendment. The second claim of the assessee before the CIT(A) was that

the project in Sector No.1 and Sector No.7 were separate and should be considered separately for granting deduction under section 80-IB(10) of the Act. The CIT(A) in relation thereto noted that the assessee had clarified that it was following mercantile system of accounting regularly. It was further clarified that for revenue recognition, project completion method was followed. However, units which were completed in the previous year and whose possession was handed over to the purchaser was considered as sales receipt in the Profit & Loss Account. The direct and indirect expenses incurred on the project from time to time were debited to the work-in-progress account of the respective projects and the proportionate land cost as well as cost of construction relating to the units recognized as sold, was considered as cost of the unit for the purpose of Profit & Loss Account. The assessee, in this regard, made reference to Note B of the notes to the accounts appended to the audited financial statements.

14. In respect of the first proposition raised by the assessee that the conditions as existing when the project was first approved would apply, the CIT(A) made reference to the provisions of the Act and the judicial pronouncements of the Apex Court and the Hon'ble Bombay High Court and held that the claim of the assessee that the law could only be applied prospectively and not retrospectively on the presumption that the clause (a)(i) and (a)(ii) applied by the Assessing Officer could only be applied prospectively and the same was held to be applicable retrospectively, appears to be incorrect. The CIT(A) was of the view that where the assessee was claiming the deduction in assessment year 2006-07 and since clause (a)(i) and (a)(ii) were introduced by the Finance (No.2) Act, 2004 w.e.f. 01.04.2005, the same would be applicable from assessment year 2005-06 including the assessment year in question. The CIT(A) referred to the ratio laid down by the Pune Bench of the Tribunal in *Opel Shelters Pvt. Ltd. vs. ACIT* and *D.S. Kulkarni & Associates vs. ITO* (supra) and pointed out that in harmonious interpretation of the provisions of the Act, the Tribunal had held in respect of clause (d) that the same was not possible to be complied with as the project had already been approved and commenced prior to the insertion of the amendment; whereas in respect of clause (a) it was held to be feasible and not causing any hardship to the assessee, especially for years during which clause (a) had no prescription for time for completing the project at the time of approval. In view thereof, the CIT(A) upheld the order of the Assessing Officer in applying the law prescribed in clause (a)(i) of section 80-IB(10) of the Act.

15. In respect of the second issue raised that the project 'Empire Estate' comprising of 15 buildings in Sector No.1 and Sector No.7 was one project and therefore all the conditions regarding the eligibility of claim of deduction under section 80-IB(10) of the Act had to be applied, the finding of the CIT(A) was that there is no dispute that except for the condition in clause (a)(i) and (a)(ii) introduced from assessment year 2005-06, all other conditions were fulfilled by the assessee. The CIT(A) further held that since the provisions of clause (a)(i) and (a)(ii) to section 80-IB(10) of the Act were held to be applicable then where the project is one or separate assume significance because all the buildings in Sector No.1 were found to have been completed by 31.03.2008, whereas only some of the buildings of Sector No.7 were completed by 31.03.2008. The CIT(A) noted the arguments/submissions of the assessee that though building plans and

commencement certificate were issued for plots situated in Sector No.1 and Sector No.7, but the same were separated by D.P. road and further the statutory authority i.e. PCMC had considered the same independently for working out the FSIs of the respective Sectors under consideration. Where the plots had not been amalgamated and the commencement certificate is common, only because the assessee held the right of development for developing in both the Sectors, for which it had made the application together, the CIT(A) admitted the additional evidences filed by the assessee i.e. certificate from the registered Architect and the City Engineer, PCMC. It was also noted by the CIT(A) that the registered Architect was the same Mr. Harshad Ruparel, who was appointed by the Assessing Officer for carrying out the verification of the eligibility of the project for deduction under section 80-IB(10) of the Act and on whose report the Assessing Officer had placed reliance. The assessee had furnished a report from registered Architect who, in turn, had certified that the projects in Sector No.1 and Sector No.7 are separate in all respects. Further, the City Engineer, PCMC under whose jurisdiction the project had been developed and from whom the building plans were approved also certified that the projects in Sector No.1 and Sector No.7 were separate. The CIT(A) was of the view that it was difficult to brush-aside the said certificate filed by the assessee though as additional evidence. The CIT(A) relied upon the series of decisions of the Pune Bench of the Tribunal for the proposition wherein it was held that each building on fulfillment of other conditions was held to be independent projects, entitled to the claim of deduction under section 80-IB(10) of the Act. In the absence of any specific definition of housing project being available under the Income Tax Act, the CIT(A) held that the claim of the assessee in this regard and including the judicial pronouncements on the issue, have to be accepted. The CIT(A) observed that the case of the assessee looks correct because the buildings have been separately planned in Sector No.1 and Sector No.7 and both the Sectors were independent as per the layout plans approved by PCMC and were not even contiguous. In fact, Sector No.1 and Sector No.7 were situated on the opposite sides of 145 mtrs. width D.P. Road and even opposite to each other. Further, the buildings had been separately identified and approved by making the calculation in view of FSI, etc. for Sector No.1 and Sector No.7 separately. Further, the City Engineer had certified that both the Sectors had not been amalgamated and were treated separately by the PCMC for granting approval for buildings in the respective Sectors. The CIT(A) thus, upheld the claim of the assessee to treat the Sector No.1 and Sector No.7 separately and the assessee was asked to obtain a certificate from the Chartered Accountant segregating the profits for Sector No.1 and Sector No.7, as per the certificate issued in Form No.10CCB and books of account maintained by the assessee. The assessee, in turn, submitted the said certificate as per which the profits have been computed at Rs.2,88,30,188/- for Sector No.1 and for Sector NO.7, it was computed at Rs90,48,732/-. The CIT(A) further noted that there was no dispute that all the buildings of Sector No.1 were completed before 31.03.2008 therefore, the profit of Sector No.1 would be eligible for deduction under section 80-IB(10) of the Act. Since only some of the buildings of Sector No.7 were completed before 31.03.2008, the CIT(A) held that there was a definite failure on the part of the assessee to complete the project of Sector No.7 before the due date prescribed in clause (a)(i) of section 80-IB(10) of the Act and therefore the said profit was held to be not eligible for deduction under

section 80-IB(10) of the Act. The Assessing Officer was directed to verify the computation of profit of Sector No.1 and Sector No.7 separately.

16. In respect of second claim of the assessee vis-à-vis pro-rata deduction to be allowed on the housing units completed in Sector No.7, the CIT(A) held that the issue involved in the present case was in respect of non-fulfillment of condition prescribed in clause (a)(i), as per which the project was required to be completed before 31.03.2008. The CIT(A) was of the view that unless the project as a whole is found to be completed, it would be incorrect to allow the deduction. The CIT(A) also observed that "it is not the case of the appellant that the buildings of Sector No.7 which were completed upto 31.03.2008 is a separate project". Entire Sector No.7 has been claimed by Ld. Authorized Representative for the assessee as one project. Therefore, reliance placed by the Ld. Authorized Representative for the assessee on the decisions was held to be not applicable."

9. The CIT(A) in the case of Padmavati Developers (supra) as in the case of assessee before us , held that two sectors developed by the assessee were separate projects eligible for deduction under section 80IB(10) of the Act. The CIT(A) has held the assessee to be eligible for the deduction under section 80IB(10) of the Act in respect of profits of sector No.2. The relevant findings of the CIT(A) are at pages 60 and 61 in this regard, wherein, he has held that the sector No.2 was developed on separate piece of land having total area of 14260.35 sq. mtrs., on which four buildings having four wings each described as A-1 to A-4, B-1 to B-4, C-1 to C-4 and D-1 to D-4 had been constructed. In these buildings, there were 352 flats and 84 shops. First completion certificate relating to buildings constructed in sector No.2 was received on 31.03.2008 for 264 flats w.e.f. 05.12.2006. The second and final completion certificate was received on 16.11.2010 for remaining 88 flats and 84 shops w.e.f. 04.12.2007. The CIT(A) accepted the actual date of completion, which was declared by PCMC to be the date on which the project was completed. Since the assessee had claimed to have completed the construction of 264 flats on 05.12.2006 and remaining 88 flats and 84 shops on 04.12.2007, the assessee was held to be eligible to claim the deduction under section 80IB(10) of the Act as the construction was completed

before the stipulated date i.e. 31.03.2008 even though the completion certificate was issued by the local authority on a later date. The finding of CIT(A) in this regard was that the entire project or sector No.2 was completed before 31.03.2008 as prescribed in clause (a)(i) of section 80IB(10) of the Act and hence, the assessee was held to have complied with the said condition. The second objection of the Assessing Officer that the project in sector No.2 had commercial area in excess of 2000 sq.ft. and hence, the conditions laid down in clause (d) to section 80IB(10) of the Act was not fulfilled by the assessee, was also rejected by the CIT(A), in view of the ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Brahma Associates (2011) 333 ITR 289 (Bom). The CIT(A) while deciding the ground of appeal No.1 raised by the assessee held that the profit of sector No.2 claimed in the return of income would be eligible for deduction under section 80IB(10) of the Act. So far as the sector No.5 was concerned, the CIT(A) held that even though the assessee had obtained completion certificate in respect of 264 flats before 31.03.2008, but it was an admitted position that the same did not relate to many of the buildings included in the project of this sector i.e. building Nos.N-1 to N-3 and therefore, where the project has not been completed before 31.03.2008, the assessee was not entitled to the claim of deduction under section 80IB(10) of the Act. However, since the Assessing Officer had not verified the computation of profit on sector Nos.2 and 5 separately, the Assessing Officer was directed to verify the correctness of calculation made while giving appeal effect.

10. Another plea of the assessee of claiming the deduction under section 80IB(10) of the Act on the profits from commercial portion of sector No.2 was also denied by the CIT(A), since the assessee had not raised the said ground of appeal in its return of income nor any revised return of income was filed before expiry of stipulated period. Reliance in this regard was placed on the ratio laid down by the

Hon'ble Supreme Court in **Goetze (India) Ltd. vs CIT** (2006) 284 ITR 323 (SC). The assessee had raised another ground of appeal before the CIT(A) for allowing proportionate deduction for completed units, which was also denied by the CIT(A) as in the case of Padmavati Developers (supra) and we have already reproduced the findings of CIT(A) in this regard in paras 7 to 16 of that order.

11. The assessee is in appeal by way of ground of appeal No.1 against the disallowance of deduction claimed under section 80IB(10) of the Act in respect of sector No.5 on the ground that the amendment brought in by the Finance Act, 2004 was applicable prospectively to the housing project.

12. The learned Authorized Representative for the assessee fairly conceded that the said issue is decided against the assessee by the Tribunal in the case of Padmavati Developers. The learned Authorized Representative for the assessee further submitted that the submissions made in the case of Padmavati Developers by the learned Authorized Representative for the assessee himself are being reiterated.

13. The learned Departmental Representative for the Revenue also reiterated the submissions earlier made and stressed that since the issue is decided against the assessee by the order of Tribunal, there is no merit in the ground of appeal No.1 raised by the assessee.

14. On perusal of order passed by the Tribunal in the case of Padmavati Developers (supra), we find that on identical facts i.e. in respect of the same project, the claim was made in respect of sector No.1 and sector No.7, which was separated by an internal road measuring 45 sq. mtrs. The learned Authorized Representative for the assessee while arguing the appeal in the case of Padmavati

Developers (supra), made the under-mentioned submissions, which was replied by the learned Departmental Representative for the Revenue and the relevant paras of the Tribunal are as under:-

“19. The Ld. Authorized Representative for the assessee after referring the facts of the case referred to the layout plans placed at page 71 of the Paper Book-I, it was pointed out by the Ld. Authorized Representative for the assessee that Sector No.1 and Sector No.7 of the project were different projects. As is apparent from the layout plan itself, the two Sectors were divided by D.P. Road and were not amalgamated. The assessee out of the total layout plan had factually acquired Sector No.1 and Sector No.7 for development and consequently the commencement certificate was jointly issued for Sector No.1 and Sector No.7. It was further pointed out by the Ld. Authorized Representative for the assessee that the area for Sector No.1 was 7323.92 sq.mtrs. and the area of Sector No.7 was 13,768.43 sq.mtrs.. In other words, both the Sectors No.1 and 7 fulfilled the conditions of minimum area of 1 acre for constructing the individual housing project. The Ld. Authorized Representative for the assessee pointed out that in Sector No.1, five buildings E, F, G, H and I were proposed with 132 flats. In Sector No.7, 7 buildings and 35 row houses were proposed. The Ld. Authorized Representative for the assessee fairly admitted that during the course of filing the return of income, the profits from Sector No.1 and Sector No.7 were considered as one project and the deduction was claimed under section 80-IB(10) of the Act by submitting one Audit Report in respect of both Sectors No.1 and 7. He further fairly admitted that building in Sector No.7 was not completed before 31.03.2008, though the commencement certificate was dated 15.12.2013. The Ld. Authorized Representative for the assessee further pointed out that it had complied with all the other conditions contained in section 80-IB(10) of the Act i.e. there was no commercial establishment and the size of the residential units were within the permissible limit. It was further submitted by him that the Assessing Officer deputed the Inspector for inspecting the property. None of the units were found to exceed 1500 sq.fts. in area. It was further pointed out that during the course of survey conducted on the premises of the assessee on 14.06.2006, Survey Team noted that some of the buildings in Sector No.7 were not completed. The Assessing Officer, in view thereof, since the buildings were not completed in Sector No.7, denied the deduction under section 80-IB(10) of the Act. The Ld. Authorized Representative for the assessee pointed out that whether the housing project was approved on 01.04.2005, the provisions of completion of the building brought in by the Finance (No.2) Act, 2004 w.e.f. 01.04.2005 were applicable. It was the claim of the assessee that even though the project was not completed, the deduction is to be granted to the assessee. An alternate plea raised before the authorities below was that occupancy certificate was issued first for Sector No.1 on 28.03.2008 and the deduction should be granted for the said project. The Ld. Authorized Representative for the assessee fairly pointed out that the CIT(A) had not accepted the first objection of the assessee against the completion by the stipulated date, but he had granted the deduction under section 80-IB(10) of the Act in respect of Sector No.1, since the said project was completed before 31.03.2008. However, no deduction was allowed under section 80-IB(10) of the Act in respect of the building in Sector No.7 which were completed in assessment years 2006-07, 2007-08 and 2009-10. The Ld. Authorized Representative for the assessee pointed out that though the assessee was following the project completion method and when the possession was given, the income was recognized in the hands of the assessee. Ld. Authorized Representative for the assessee further stated that admittedly the buildings in Sector No.7 were not completed before 31.03.2008 and have been completed in 2014. In the alternate, where the assessee was following the project completion method and the project had not completed before 31.03.2008, the plea of the assessee before us was that the matter can be decided on merits.

20. In reply, the Ld. Departmental Representative for the Revenue pointed out that the Sector No.1 and Sector No.7 were same project of the assessee and when once it was single project, where the condition of the completion of the project were violated, then there is no merit in the grant of deduction under section 80-IB(10) of the Act in respect of Sector No.1. Referring to the second contention of the Ld. Authorized Representative for the assessee, the Ld. Departmental Representative pointed out that there is no merit in the plea of the Ld. Authorized Representative for the assessee that where second Sector No.7 had to be considered separately but where Sector No.7 is not completed, how can he claim deduction under section 80-IB(10) of the Act. Ld. Departmental Representative for the Revenue in this regard placed reliance on the order of the CIT(A).

21. The Ld. Authorized Representative for the assessee pointed out that in assessment year 2006-07, the claim of deduction under section 80-IB(10) of the Act was in relation to Sector No.1 and Sector No.7. However, in assessment year 2007-08 and 2009-10, the deduction was claimed only in respect of Sector No.7. Reliance in this regard was placed on the ratio laid down by the Pune Bench of the Tribunal in *Opel Shelters Pvt. Ltd. vs. ACIT and D.S. Kulkarni & Associates vs. ITO* (supra) that the provisions which have been inserted on a later date cannot apply to the projects which were sanctioned prior to the same."

15. The Tribunal after considering the submissions made by both the Authorized Representatives and on perusing the record, deliberated upon the provisions of section 80IB(10) of the Act and various conditions laid therein and held as under:-

"22. We have heard the rival contentions and perused the record. The issue arising in the present appeal is in relation to the claim of deduction under section 80-IB(10) of the Act. For granting the aforesaid deduction under section 80-IB(10) of the Act, the statute provides certain conditions to be fulfilled by the claimant before the person is found to be eligible for the said deduction. The first condition provided in sub-clause (a) of section 80-IB(10) of the Act is the period during which the said construction has to be completed. The present section 80-IB(10) of the Act has been substituted by Finance (No.2) Act, 2004 w.e.f. 01.04.2005. After the amendment, it is provided that where such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 and completes such construction; (i) in a case where a housing project has been approved by the local authority before the 1st day of April, 2004, on or before 31st day of March, 2008; (ii) in a case where a housing projects are approved thereafter i.e. on or after 1st day of April, 2004 then the construction is to be completed within four years from the end of the financial year in which the housing project is approved by the local authority; and (iii) in a case where a housing project has been approved by the local authority on or after the 1st day of April, 2005 then the construction has to be completed within five years from the end of the financial year, in which the housing project was approved by the local authority, in order to be eligible for the claim of deduction under section 80-IB(10) of the Act. The explanation under the said sub-clause provides that in case where the approval in respect of the housing project is obtained more than once, such housing project shall be deemed to have been approved on the date on which the building plan of such housing project is first approved by the local authority. It is further provided that the date of completion of construction of the housing project shall be taken to be the date on which the completion certificate in respect of such housing project is issued by the local authority.

23. The second condition provided in clause (b) of section 80-IB(10) of the Act is that the project should be on the size of a plot which has a minimum area of one acre and the proviso therein provided such condition minimum 1 acre of plot are not to be applied for reconstruction and redevelopment of existing building in area declared to be slum areas under any law and such scheme is notified by the Board. Under clause (c) of section 80-IB(10) of the Act, the requirement is that the maximum built-up area of the residential unit within the Municipal limits of City for the City of Delhi or Mumbai or within twenty-five kilometers from the Municipal limits of the said cities is 1000 sq. ft. The maximum built-up area for other places at one thousand five hundred square feet is prescribed. Clause (d) of section 80-IB(10) of the Act provides that the built-up area of the shop and other commercial establishment in the said project does not exceed three per cent of the aggregate built-up area of the housing project or five thousand sq.fts., whichever is highest. Under clause (e) of section 80-IB(10) of the Act it is provided that not more than one residential in the housing project is to be allowed to any person not being an individual. Further, clause (f) of section 80-IB(10) of the Act provides that in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is to be allotted to his family members as provided thereunder. Clauses (e) and (f) to section 80-IB(10) of the Act have been inserted by the Finance (No.2) Act, 2009 w.e.f. 01.04.2010.

24. In the present case, assessee had entered into a development agreement, under which it received the rights to develop Sector No.1 and Sector No.7 of plot in Chinchwad. The area in Sector No.1 was 7323.92 sq.mtrs. and the area to be developed in Sector No.7 was 13,768.43 sq.mtrs.. The assessee's plot is situated at CTS No.4510/1, Chinchwad and the said plot of land was owned by the society Premiere City Sahakari Group Rachana Sanstha Maryadit which, in turn, had purchased the land admeasuring 1,03,884 sq.mtrs. situated at Chinchwad, Pune from Premiere Automobiles Ltd.. The owners got the layout plan of the said land approved from PCMC and the copy of the layout is placed at page 71 of the Paper Book-I. The perusal of the said layout plan reflects the intention to develop various buildings in Sector Nos.1 to 7. The area in sq.mtrs of each of the Sector is provided in the said layout plan. The copy of the layout plan reflects that Sector No.1 and 2 were on one side of the plot of land and Sector No.1, 2 and 3 were separated from Sector No.4 to 7 by a 45 mtrs. D.P. Road. Various buildings have to be constructed in each of the said Sector. As per the lay out plan as mentioned earlier, total area of the plot was 1,03,884 sq.mtrs. The assessee entered into development agreement with the said society for the development of two Sectors i.e. Sector No.1 and Sector No.7, as per agreement dated 15.12.2003. The perusal of the layout plan placed in the Paper Book reflects that both the Sectors for which assessee acquired the development rights were not adjacent to each other but were falling on either side of the D.P. Road, having width of 45 kilometers and were not contiguous to each other. Sector No.1 consisted of five buildings i.e. E, F, G, H and I-1 and I-2. The total residential units to be constructed in Sector No.1 were 132, with no shop and commercial establishment in Sector No.1. On the other hand, the buildings plan of Sector No.7 consisted of 7 buildings and 35 row houses. The project consisted of total number of 419 residential units including 35 row houses. There were no shop and commercial establishment to be constructed on Sector No.7. The assessee as power of attorney holder applied for the commencement certificate which was approved by PCMC on 15.12.2003. The assessee was filing the return of income by treating both the projects as a single project and claiming the deduction in respect of profits derived from the said project constructed in Sector No.1 and Sector No.7 as one project. The Auditor had also furnished audit report in Form No.10CCB by considering both the projects as a single project. The Assessing Officer also completed the assessment by treating both the projects as single project and since the same were not completed before the 31st March, 2008, the deduction claimed under section 80-IB(10) of the Act was denied.

25. The case of the assessee before us is that the projects at Sector No.1 and Sector No.7 were separate and independent projects. In this regard, assessee placed reliance on the position of the projects in the layout plant in the first instance. Further, the plea of the assessee before the CIT(A) and even before us was that the Architect Mr. Harshad Ruparel had certified that the projects constructed at Sector No.1 and Sector No.7 were separate and independent. It was also pointed out by the Ld. Authorized Representative for the assessee before us that pursuant to the survey operations, the Assessing Officer had verified the status of the building completed or not through the same Architect, Mr. Harshad Ruparel. Our attention was drawn to the certificate placed at page 32 in the Paper Book. In this regard, another reference made by the assessee was to the certificate issued by the PCMC, which is placed at page 36 of the Paper Book-I with English Translation at pages 37 – 38 of the Paper Book-I, in which, it was certified that the project No.1 and 7 approved with reference to the land of the respective Sectors. The City Engineer, PCMC further certified that Sector No.1 and Sector No.7 were not amalgamated. He further certified that the project in Sector No.1 and Sector No.7 were separate and independent projects. Another certification given by him was that the commencement certificate bears the same Number as the assessee was holding power of attorney in both the Sectors.

26. Under the provisions of section 80-IB(10) of the Act where various conditions are laid down and as per clause (b), the condition to be fulfilled is the area of the plot should be one acre or more as referred to by us in the paras hereinabove. Admittedly, the area of Sector No.1 and Sector No.7 individually was more than one acre. Further, the residential units constructed in the said buildings were within the limits prescribed in sub-clause (c) of section 80-IB(10) of the Act. There is no violation of clause (d) of section 80-IB(10) of the Act as there was no shop or commercial establishment in either Sector No.1 or Sector No.7. The assessee has constructed five buildings in Sector No.1 and was to construct 7 buildings along with 35 row houses in Sector 7. Admittedly, the five buildings in Sector No.1 have been completed by the assessee by 28.03.2008 against which the assessee has received the partial completion certificate. It is also further admitted that in assessment year 2006-07, the assessee had completed two buildings in Sector No.7 and further some buildings were completed in assessment year 2007-08. However, the project has not been completed by the assessee till 31.03.2008. The perusal of the letter from PCMC dated 24th June, 2011, which is placed at pages 36 of the Paper Book along with its translation at page 37 of the Paper Book reflects the assessee to have received the original permission for construction of the property on 15.12.2003. Thereafter the assessee received revised permission for construction on 21.05.2005, 29.03.2007, 28.03.2008 and also on 06.03.2009 and thereafter on 31.03.2010. The assessee has fairly admitted that the building No.7 was under construction till 2014.

27. The first aspect of the issue arising before us whether the construction carried out by the assessee in Sector No.1 and Sector No.7 were independent housing projects, against which the assessee could separately claim the deduction under section 80-IB(10) of the Act, where the projects had fulfilled the conditions laid down in the said section. The first claim of the assessee before us is in respect of Sector No.1, which the assessee claims to have completed the construction prior to 31.03.2008. The second part of the claim of the assessee was by way of alternate plea that the said deduction under section 80-IB(10) of the Act should be allowed vis-à-vis the completed buildings of Sector No.7, even though the project has not been completed by 31.03.2008. Both these pleas raised by the assessee were stressed by the Ld. Authorized Representative for the assessee elaborately and took us through the provisions of the Act and stressed that the amended provisions brought by Finance (No.2) Act, 2004 were not applicable to the assessee i.e. there was no provision under which it had to complete the construction by

31.03.2008, since it had acquired the permission to construct the said buildings prior to the insertion of the relevant provisions.

28. As referred by us in paras hereinabove under the provisions of section 80-IB(10) of the Act, the conditions are laid down which entitles the assessee to the claim of equivalent to 100% of the profit derived from the development and building of housing projects. Admittedly, the assessee has fulfilled the conditions laid down in clauses (b), (c) and (d) of section 80-IB(10) of the Act and both the authorities below have admitted that there is no violation of the said conditions. The only condition left out is the condition in clause (a) of section 80-IB(10) of the Act. Under the said clause, it is provided that where such undertaking has commenced or commences development and construction of the housing project on or after the 1st day of October, 1998 then where the housing project has been approved prior to 1st day of April, 2004, the construction has to be completed on or before 31st day of March, 2008. The contention of the assessee with regard to the application of the said provisions of the Act was that where it had received the permission for construction of the housing project on 15.12.2003, then such condition was not there in the Act and hence the same is not applicable in the present case. In other words, the plea of the assessee is that where it had received the permission on 15.12.2003 then the present provisions of section 80-IB(10) of the Act, which were inserted by Finance (No.2) Act, 2004 w.e.f. 01.04.2005 were not there on the statute and consequently even in cases where the assessee had not completed the construction of the housing project on or before 31st day of March, 2008, the assessee is entitled to claim the deduction in respect of the period within which the said housing project has been completed, irrespective of the date of 31st day of March, 2008. The said provisions of the Act which has been substituted by the Finance (No.2) Act, 2004 w.e.f. 01.04.2005 talks of a housing project which had been approved by the local authority before the 1st day of April, 2004 and thereafter period of four years has further been granted to comply with the development and construction of the housing project i.e. on or before 31st day of March, 2008. The case of the assessee before us was that the said provisions do not have retrospective operation and have to be applied prospectively. We find no merit in the said plea of the assessee that where the section was inserted w.e.f. 01.04.2005 and it talks of the projects which have been approved by the local authority before 1st day of April, 2004, then how could the provisions would apply only prospectively. The said provisions are applicable to all the projects which were pending on the date when the section was substituted, as clause (a)(i) very clearly talks of all the housing projects which have been approved by the local authority before 1st day of April, 2004 and have to be completed on or before 31st day of March, 2008, for making it eligible for the claim of deduction under section 80-IB(10) of the Act. The beneficial provisions provided by the legislature have to be interpreted and it is not the intention of the legislature that liberty should be given to the builders not to complete the projects within the time frame which, in turn, would put the prospective buyers at disadvantage. The conditions have been laid down in the said section in order to streamline the development and building of the housing projects which, in turn, would be handed-over to the prospective buyers within the time frame. Further period of four years have been provided in the sub-section for compliance to the conditions laid therein. Accordingly, we hold that in the present case, where the assessee had received permission for construction vide order dated 15.12.2003 and following the provisions of clause (a)(i) to section 80-IB(10) of the Act, the said project had to be completed before 31st day of March, 2008, in order for the assessee to avail the benefit of deduction under the said section. The assessee has completed the housing project in Sector No.1 and some of buildings in Sector No.7, prior to the said date and had availed benefit of deduction under section 80-IB(10) of the Act in respect thereof, in assessment years 2006-07 and 2007-08 which are the issues pending before us for adjudication. Another aspect to be noted is that on the one hand the assessee claims that it had received original permission for construction of the housing project on 15.12.2003 but the certificate

of the City Engineer, PCMC reflects that the assessee has applied for revision of its plans for construction in 2005 on 21.05.2005, 29.03.2007 and again on 28.03.2008, 06.03.2009 and also on 31.03.2010. The Ld. Authorized Representative for the assessee admitted before us that the handing over of the possession have been completed till 2014 for some of the buildings.

29. The Ld. Authorized Representative for the assessee placed reliance on the ratio laid down by the Hon'ble Delhi High Court in CIT vs. CHD Developers Ltd., (2014) 88 CCH 024 (Del) for the proposition that the amendment to section 80-IB(10) of the Act was applicable prospectively and not retrospectively. In the facts of the case before the Hon'ble Delhi High Court (supra) though the approval of project related to period prior to 2005, the Assessing Officer disallowed the claim of deduction under section under section 80-IB(10) of the Act in the absence of completion certificate, where the assessee had applied for the completion certificate but the same was not issued. In the aforesaid facts, the Hon'ble Delhi High Court held that where the approval related to the period prior to 2005, i.e. before the amendment, which insisted on issuance of the completion certificate by the end of the 4 year period, the application of such stringent conditions, which are left to an independent body such as the local authority, who is to issue the completion certificate, would lead not only to hardship but absurdity. However, the facts of the present case are at variance wherein the assessee before us claims that it had not completed the said project within the stipulated period. The completion of construction and handing over of the possession was admittedly in the hands of the assessee and such non-completion of the project within reasonable time would put the prospective buyers at disadvantage and it can never be the intention of the legislature to cause such hardship.

30. The Hon'ble Supreme Court in Reliance Jute and Industries Ltd. vs. CIT, 120 ITR 921 (SC) had held that claim by an assessee under the law in force in the particular assessment year is ordinarily available only in relation to a proceeding pertaining to that year. In the facts of the case before the Hon'ble Supreme Court for assessment year 1959-60, the Assessing Officer set-off the unabsorbed business loss for 1949-50 and 1950-51, against the business income of that year and directed that Rs.15,50,189/- represented the loss remaining unabsorbed should be carried forward. In the assessment proceedings for the assessment year 1960-61, which was before the Hon'ble Apex Court, the assessee claimed that the unabsorbed loss should be carried forward and set-off against the business income of the current year. The Assessing Officer rejected the claim on the ground that the unabsorbed loss could not be carried forward for more than eight years. The Hon'ble Supreme Court held that assessee claims a vested right under section 24(2)(iii) of the Act, as it stood before its amendment in 1957, to have the unabsorbed loss of 1950-51 carried forward from year to year until the loss is completely absorbed. The claim is based on a misconception of the fundamental basis underlying every income tax assessment. It is a cardinal principle of the tax law that the law to be applied is that in force in the assessment year unless otherwise provided expressly or by necessary implication : CIT v. Isthmian Steamship Lines [1951] 20 ITR 572 (SC) and Karimtharuvi Tea Estate Ltd. v. State of Kerala [1966] 60 ITR 262 (SC). On that principle, it is abundantly clear that when an assessment for the assessment year 1960-61 is to be made and s. 24(2) is invoked, it is s. 24(2) as in force in that assessment year which has to be applied. That is the provision as amended by the Finance (No. 2) Act, 1957. There is no question of the assessee possessing any vested right under the law as it stood before the amendment. The assessment for one assessment year cannot, in the absence of a contrary provision, be affected by the law in force in another assessment year. A right claimed by an assessee under the law in force in a particular assessment year is ordinarily available only in relation to a proceeding pertaining to that year. Therefore, inasmuch as the provisions of s. 24(2), as amended in 1957, govern the assessment for the assessment year 1960-61, the

High Court is right in affirming that the unabsorbed loss of Rs. 15,50,189 of the assessment year 1950-51 cannot be carried forward for more than eight years, and consequently, cannot be set off against the business income of the assessment year 1960-61.

[underlined for emphasis by us]

31. Following the aforesaid principles laid down by the Hon'ble Apex Court in *Reliance Jute and Industries Ltd. vs. CIT (supra)*, we hold that while deciding the claim of the assessee relating to assessment year 2006-07, the provisions of the Act as applicable for this assessment year are to be applied harmoniously and consequently the claim of the assessee is to be looked into in line with the amended provisions of section 80-IB(10) of the Act, which have been made applicable for the construction of the housing project, which had commenced development and construction after the 1st day of October, 1998 but before 1st day of October, 2004, then such housing projects in order to avail the aforesaid deduction, had to be completed on or before 31st day of March, 2008. We uphold the order of CIT(A) in this regard.

32. The Ld. Authorized Representative for the assessee placed reliance on the ratio laid down in *Saroj Sales Organization vs. ITO*, (2008) 115 TTJ 485 (Mum) for the proposition that the amended provisions of section 80-IB(10) of the Act have prospective application. In the facts of the case before the Tribunal, the deduction under section 80-IB(10) of the Act was denied to the assessee as the commercial area was more than as provided in the amended section. The Tribunal thus held where the plans were approved before the amended provisions were introduced then the conditions of shopping area not exceeding 5 per cent of built-up area as introduced by subsequent amendment and applicable in respect of projects approved before 31st March, 2007 would not apply. In such circumstances, where there was a requirement of commercial area to a certain extent, the same could have been taken care of by the assessee in the plans which were approved prior to the introduction of such restriction. In those facts, it was held by the Tribunal that the provisions which were introduced were prospective provision and could not be applied retrospectively. In the said decision itself, it was noted by the Tribunal that the occupation certificate of three wings had been issued prior to 31st March, 2008 and the condition relating to the completion of the construction as prescribed in section 80-IB(10) of the Act should also be taken to be satisfied. In other words, it has been laid down by the Tribunal that the provisions of section 80-IB(10)(a)(i) of the Act apply prospectively.

33. The Ld. Authorized Representative for the assessee further placed reliance on the ratio laid down by the Pune Bench of the Tribunal in *Opel Shelters Pvt. Ltd. vs. ACIT and D.S. Kulkarni & Associates vs. ITO (supra)* for the proposition the amended provisions were not applicable to the projects which had been sanctioned prior to 01.04.2004. In the facts of the case, the issue before the Tribunal was vis-à-vis the application of sub-clause (d) of section 80-IB(10) of the Act, which was not in existence, when the building plans were approved in the case of the assessee. The newly inserted clause (d) of section 80-IB(10) of the Act prescribed the built-up area of the shops and other commercial establishment which can be included in housing project. The Tribunal while deciding the said issue had held that In our view the newly inserted clause (d) to section 80IB(10) of the Act will not apply to projects approved upto 31.03.2005, since in those projects assessee is required to construct what has been approved. The only feasible compliance is required to be met as per the harmonious interpretation of section 80-IB(10) of the Act, as amended is to complete such projects (approved before 01.04.2004) on or before 31.03.2008. The Tribunal further observed that in the case before the Tribunal, the project have been completed well before the date. Where the legislature intended the completion of the projects within a time frame to avoid inconvenience to the beneficiaries i.e. the buyers, the observation of the Tribunal was that the time limit

for the projects approved by the local authorities had to be applied. In other words, the Tribunal considered the different conditions laid down in section 80-IB(10) of the Act and in respect of clause (a) since the projects were completed before 31.03.2008, the first condition was held to have been complied with. In respect of other conditions of the built-up area of shops and commercial establishment, it was held by the Tribunal that where the plans were approved prior to the insertion of the amended provisions w.e.f. 01.04.2005, it would be impossible to apply the said provisions, which was not on statute at the time of approval and commencement of the construction of the project.

34. The Ld. Authorized Representative for the assessee placed strong reliance on the above-said decision for the proposition that even vis-à-vis the compliance stipulated in clause (a)(i), the said provisions were not applicable to the assessee, since the housing project was approved prior to 1st day of April, 2004. We find no merit in the said reliance placed by the Ld. Authorized Representative for the assessee. In view of our discussion in the paras hereinabove and even otherwise if we accept the contention of the assessee, the provisions of clause (a)(i) would become infructuous proposition of law. Rejecting the same, we hold that the provisions of section 80-IB(10)(a)(i) are clearly applicable to the facts of the case and the assessee had to complete its project on or before 31st March, 2008 in order to avail the deduction under section 80-IB(10) of the Act.

35. The other aspect of the issue is where the assessee had commenced the construction of two buildings in Sector No.1 and Sector No.7 vide the same commencement certificate and where both the projects individually fulfilled the conditions laid down in section 80-IB(10) of the Act, can the projects be held to be separate and entitled to the benefit of deduction under section 80-IB(10) of the Act in respect of its profits individually. The assessee undoubtedly had obtained the development rights of Sector No.1 and Sector No.7 vide its agreement to sell with the original holder of the plot of land. The assessee thereafter sought permission from the competent authority i.e. PCMC for construction and development of the said Sector No.1 and Sector No.7 by a single application and the permission was also granted by the order dated 15.12.2003. The assessee before the Assessing Officer had also claimed that the said projects were one and it was entitled to the claim of deduction under section 80-IB(10) of the Act. However, during the course of appellate proceedings, the assessee raised an alternative plea that since the two housing projects i.e. Sector No.1 and Sector No.7 were separate and claim of deduction in respect of each of the projects should be separately allowed. We find merit in the plea of the assessee in this regard, where each of the project developed by the assessee was independent project itself and consequently if the individual project satisfies the conditions of section 80-IB(10) of the Act, then the said project is entitled to the claim of deduction. The housing project in Sector No.1 comprising of five buildings was completed on 28.03.2008, against which the assessee had received part completion certificate and since the project has been completed prior to 31.08.2008 i.e. within stipulated period under section 80-IB(10)(a)(i) of the Act, the assessee is entitled to the claim of deduction under the said section in respect of the profits from the said housing project in Sector No.1. We uphold the order of the CIT(A) in this regard and dismiss the grounds of appeal raised by the Revenue on both the issues.

36. Now, coming to the second housing project in Sector No.7. Admittedly, the assessee in assessment year 2006-07 has completed only 2 buildings i.e. Q-1, Q-2 and some flats in assessment year 2007-08. The building comprised in P-1 to P-6 and the row houses have not been constructed by the assessee till the date of survey and upto 31.03.2008.

37. The Hon'ble Madras High Court in *Viswas Promoters Pvt. Ltd. vs. ACIT*, (2013) 255 CTR 149 (Mad.) have laid down that within a composite housing project,

where there are eligible and intelligible units, the assessee can claim deduction in respect of eligible units in the project and even within the block, the assessee is entitled to claim proportionate relief against the units satisfying the extent of built-up area.

38. *Similar proposition has been laid down by the Bangalore Bench of the Tribunal in DCIT vs. Brigade Enterprises (P.) Ltd., (2008) 119 TTJ 269 (Bang) and the Pune Bench of the Tribunal in Runwal Multihousing Pvt. Ltd. vs. ACIT in ITA Nos.1015, 1016 and 1017/PN/2011 relating to assessment years 2003-04 to 2005-06, order dated 21.11.2012. Following the same parity of reasoning, we hold that the assessee is entitled to pro-rata deduction in respect of residential units in the housing project No.7, which have complied with the conditions and were eligible for the deduction under section 80-IB(10) of the Act. However, the said deduction is allowable to the assessee only in respect of units construction of which has been completed upto 31st March, 2008. Accordingly, we direct the Assessing Officer to verify the claim of the assessee in this regard in assessment years 2006-07 and 2007-08 and if the assessee has fulfilled the aforesaid conditions under section 80-IB(10) of the Act, pro-rata deduction under the said section could be allowed to the assessee in relation to the buildings / flats completed in Sector No.7. Consequently, the ground of appeal raised by the assessee is partly allowed."*

16. The first issue decided by the Tribunal was that the provisions of the Act as applicable to the instant assessment year are to be applied harmoniously and consequently, the amended provisions of section 80IB(10) of the Act which have been made applicable for construction of housing projects, which had commenced, developed and construction after first day of October, 1998, but before first day of October, 2004, then such housing projects in order to avail the aforesaid deduction had to be completed on or before 31.03.2008. The Tribunal further referred to the other decisions of Pune Bench of Tribunal in respect of insertion of clause (d) to section 80IB(10) of the Act and noted that the Tribunal in Opel Shelters Pvt. Ltd. vs. ACIT in ITA No.219/PN/2009, and D.S. Kulkarni & Associates vs. ITO in ITA No.17/PN/2009, both relating to assessment year 2005-06, vide order dated 31.05.2010 held that the amended provisions of clause (d) to section 80IB(10) of the Act were not applicable to the projects which had been sanctioned prior to 01.04.2004. In respect of the said projects, the first condition of having completed the project before 31.03.2008 was complied with. In respect of the other condition of built up area of shops and commercial establishments, the Tribunal held that where the plans were approved prior to insertion of amended provisions w.e.f.

01.04.2005, it would be impossible to apply the said provisions, which were not on statute at the time of approval and commencement of construction of the project.

17. The learned Authorized Representative for the assessee while arguing the appeal in the case of Padmavati Developers (supra) had relied on the said decisions for the proposition that even vis-à-vis the condition stipulated in clause (a)(i) to section 80IB(10) of the Act, the said provisions were not applicable to the assessee since the housing project was approved prior to 01.04.2004. The Tribunal in this regard held that there was no merit in the reliance placed upon by the assessee. The Tribunal vide para 35 held that the buildings constructed in sector Nos.1 and 7, construction of which had commenced vide same commencement certificate and where both the projects individually fulfilled the conditions laid down in section 80IB(10) of the Act, then the said projects were separate and entitled to the benefit of deduction under section 80IB(10) of the Act in respect of its profits individually. In view thereof, the Tribunal held that where the project of a sector for which the construction was completed before 31.03.2008, was entitled to the claim of deduction under section 80IB(10) of the Act.

18. In respect of alternate plea of the assessee that if one of the projects had not completed the construction before 31.03.2008 i.e. within stipulated period prescribed under section 80IB(10)(a)(i) of the Act, then the assessee was entitled to claim prorata deduction in respect of residential units in the said housing project, which had complied with the conditions and was eligible for deduction under section 80IB(10) of the Act. The said deduction was held to be allowable to the assessee only in respect of units, construction of which had been completed before 31.03.2008. The Assessing Officer in this regard was directed to verify the claim of the assessee for assessment years 2006-07 and 2007-08 and if the assessee had

fulfilled the conditions laid down in section 80IB(10) of the Act, the Assessing Officer was directed to allow prorata deduction to the assessee in respect of sector No.7, which was not completed up to 31.03.2008. The relevant findings of the Tribunal in this regard are in paras 36 to 38 of the order.

19. In respect of assessment year 2009-10, it was held that where the assessee had not completed the buildings up to 31.03.2008, the assessee was not entitled to any claim of deduction under section 80IB(10) of the Act in assessment year 2009-

10. The relevant finding is as under:-

“39. The assessee in ITA No.2463/PN/2012 relating to assessment year 2009-10 has raised similar issue of claim of deduction under section 80-IB(10) of the Act in respect of Sector No.7. In view of our decision in paras hereinabove, wherein we have already held that the assessee having completed the building after 31st March, 2008 is not entitled to the claim of deduction under section 80-IB(10) of the Act, we hold so. We uphold the order of the CIT(A) in rejecting the claim of deduction under section 80-IB(10) of the Act in the instant assessment year.”

20. Now, coming to the issues raised by the assessee before us. We find that ground of appeal No.1 is in respect of deduction claimed under section 80IB(10) of the Act in respect of sector No.5. Admittedly, the said project was not completed before 31.03.2008 and as admitted by the learned Authorized Representative for the assessee that it is not eligible to the claim the deduction under section 80IB(10) of the Act, but with a rider that prorata deduction should be allowed, which we shall adjudicate while deciding the grounds of appeal raised in this regard. The ground of appeal No.1 is thus, dismissed.

21. The issue in ground of appeal No.2 is with regard to the finding of CIT(A) in allowing the relief under section 80IB(10) of the Act in respect of residential portion of sector No.2. The assessee had paid taxes on the profits of Rs.1,04,77,435/- in respect of profits derived from shops / commercial establishments included in sector No.2. The additional grounds of appeal raised by the assessee before CIT(A) in this regard for granting relief was rejected as the assessee had not made

claim in the return of income or before the Assessing Officer and also not in the appeal Memo in Form No.35. The claim of the assessee on the other hand was that the said deduction was allowable to it on the basis of ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Brahma Associates (2011) 333 ITR 289 (Bom) and the claim was made by way of raising an additional ground of appeal before the CIT(A).

22. We find merit in the plea of the assessee in this regard that even during the appellate proceedings, the assessee is entitled to raise an additional ground of appeal which is a question of law. In this regard, we find support from the ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Pruthvi Brokers & Shareholders (P) Ltd. (2012) 349 ITR 336 (Bom), wherein it was held that even assuming that the Assessing Officer is not entitled to grant a deduction on the basis of a letter requesting an amendment to the return filed, the appellate authorities are entitled to consider the claim and to adjudicate the same. The claim of the assessee before us was that since the project was approved prior to 01.04.2005, the amended provisions of clause (d) to section 80IB(10) of the Act were not applicable. The amended provisions of clause (d) to section 80IB(10) of the Act i.e. restrictions on the commercial area are not applicable to the assessee, in view of the ratio laid down in Opel Shelters Pvt. Ltd. vs. ACIT (supra) and D.S. Kulkarni & Associates vs. ITO (supra). Further, the Hon'ble Supreme Court in CIT Vs. M/s. Sarkar Builders in Civil Appeal No.4476 of 2015, judgment dated 15.05.2015 has held as under:-

(g) From this provision, therefor, it is clear that the housing project contemplated under sub-section (10) of Section 80IB includes commercial establishments or shops also. Now, by way of an amendment in the form of Clause (d), an attempt is made to restrict the size of the said shops and/or commercial establishments. Therefore, by necessary implication, the said provision has to be read prospectively and not retrospectively. As is clear from the amendment, this provision came into effect only from the day the provision was substituted. Therefore, it cannot be applied to those projects which were sanctioned and commenced prior to 01.04.2005 and completed by the stipulated date, though such stipulated date is after 01.04.2005.

23. Having regard to the ratio laid down by the Hon'ble Supreme Court in CIT Vs. M/s. Sarkar Builders (supra), we hold that since no limit of commercial area was provided in pre-amended provisions of section 80IB(10)(d) of the Act, the assessee cannot be burdened with the amended provisions in order to deny the claim of deduction under section 80IB(10)(d) of the Act. The assessee in the written submissions filed before the CIT(A), which in turn have been reproduced by the CIT(A), had clarified the area of shops / other commercial establishments included in sector Nos.2 and 5 and percentage thereof with aggregate built up area, reference is made to page 25 of the appellate order. The shop / commercial area as certified by PCMC vide its letter dated 2nd May 2008 is as follows:-

<i>PARTICULARS</i>	<i>SECTOR 2 (Sq. Mt)</i>	<i>SECTOR 5 (Sq. Mt)</i>
<i>Shop/commercial built up area</i>	<i>2,549.36</i>	<i>3,381.22</i>
<i>Residential built up area</i>	<i>19,218.91</i>	<i>22,270.75</i>
<i>Total built up</i>	<i>21,768.29</i>	<i>25,651.97</i>
<i>Percentage of commercial to total built up</i>	<i>11.71%</i>	<i>13.18%</i>

24. We have in the paras hereinabove held that the assessee is entitled to the claim of deduction under section 80IB(10) of the Act. We hold that the said deduction under section 80IB(10) of the Act is available to the assessee even against the profits earned from the sale of shops / commercial built up area in sector No.2, which has been completed by 31.03.2008. The Assessing Officer is thus, directed to verify the claim of the assessee vis-à-vis the project in sector No.2 in respect of shop / commercial built up area and compute the deduction under section 80IB(10) of the Act after affording reasonable opportunity of hearing to the assessee. The ground of appeal No.2 is thus, partly allowed.

25. Now, coming to the grounds of appeal No.3 and 4 i.e. prorata deduction claimed in respect of completed units in the buildings in sector No.5. In line with

our order in Padmavati Developers (supra), we direct the Assessing Officer to verify the claim of the assessee in this regard and where the conditions laid down in section 80IB(10) of the Act have been complied with by the assessee, the assessee is entitled to prorata deduction in respect of units, construction of which has been completed up to 31.03.2008. The Assessing Officer is directed to follow the directions of the Tribunal as per para 38 of the order in the case of Padmavati Developers (supra) and determine the deduction under section 80IB(10) of the Act, which is allowable to the assessee.

26. The learned Authorized Representative for the assessee further pointed out that though it had raised an additional ground of appeal, but the same is not pressed, hence, the same is dismissed as not pressed.

27. Now, coming to the appeal of the assessee in ITA No.1696/PN/2013.

28. The grounds of appeal Nos.1 to 4 raised by the assessee are identical to the grounds of appeal raised by the assessee in ITA No.1695/PN/2013 and our decision shall apply mutatis mutandis to ITA No.1695/PN/2013. The learned Authorized Representative for the assessee pointed out that though it had raised an additional ground of appeal, but the same is not pressed, hence, the same is dismissed as not pressed.

29. In respect of assessee's appeal in ITA No.2464/PN/2013, the ground of appeal No.1 is identical to the ground of appeal No.1 raised in ITA No.1695/PN/2013. Following the same parity of reasoning, the ground of appeal No.1 is rejected.

30. The grounds of appeal No.2 and 3 raised by the assessee are with regard to deduction claimed under section 80IB(10) of the Act in respect of sector No.5. In view of our decision that where the assessee had completed the building after 31.03.2008, it is not entitled to the claim of deduction under section 80IB(10) of the Act. We hold so in the instant assessment year, in turn following the same ratio laid down by the Tribunal in the case of Padmavati Developers (supra). The assessee has not raised additional grounds of appeal in assessment year 2009-10.

31. Now, coming to the appeals of the Revenue in ITA Nos.1697 and 1698/PN/2012, relating to assessment years 2006-07 and 2007-08.

32. The Revenue is in appeal against the order of CIT(A) in holding that the building Nos.2 and 5 are two separate projects and allowing deduction under section 80IB(10) of the Act in respect of sector No.2. In view of our order in the case of Padmavati Developers (supra) and following the same parity of reasoning, we find no merit in the grounds of appeal raised by the Revenue and the same are dismissed in assessment years 2006-07 and 2007-08.

33. Now, coming to the appeal of Revenue in ITA No.88/PN/2013, relating to assessment year 2009-10.

34. The ground of appeal No.1 is general in nature, hence the same is dismissed.

35. The ground of appeal No.2 is same as ground of appeal No.2 raised in assessment years 2006-07 and 2007-08 and following the same parity of reasoning, we dismiss the ground of appeal No.2 raised by the Revenue.

36. The issue in grounds of appeal No.3 to 5 raised by the Revenue is against the order of CIT(A) in allowing deduction under section 80IB(10) of the Act with respect to sector No.2. Though the commercial area exceeded 5% or 2000 sq.ft., whichever was less, in view of the ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Brahma Associates (supra), we find no merit in the said issue raised by the Revenue and the same is dismissed.

37. In the result, the appeals of the assessee are partly allowed and the appeals of the Revenue are dismissed.

Order pronounced on this 30th day of November, 2015.

Sd/- (PRADIP KUMAR KEDIA)	Sd/- (SUSHMA CHOWLA)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे Pune; दिनांक Dated : 30th November, 2015.

GCVSR

आदेश की प्रतिलिपि अग्रेषित/Copy of the order is forwarded to :

- 1) The Assessee;
- 2) The Department;
- 3) The CIT(A)-I, Pune;
- 4) The CIT, Central, Pune;
- 5) The DR "A" Bench, I.T.A.T., Pune;
- 6) Guard File.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
 आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune