आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA Nos.675, 676 & 677/PUN/2019
निर्धारण वर्ष / Assessment Years : 2010-11, 2011-12 & 2012-13

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

PAN : AAEFG9930D

.......अपीलार्थी / Appellant

बनाम / V/s.

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

......प्रत्यर्थी / Respondent

Assessee by : Shri Krishna V. Gujarathi
Revenue by : S/Shri Sardar Singh Meena & S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 01-08-2022
घोषणा की तारीख / Date of Pronouncement : 02-08-2022

आदेश / ORDER

PER S.S. VISWANETHRA RAVI, JM :

These three appeals by the assessee against the common order dated 26-02-2019 passed by the Commissioner of Income Tax (Appeals)-6, Pune ['CIT(A)'] for assessment years 2010-11, 2011-12 and 2012-13, respectively.

2. Since, the issues raised in these three appeals are similar basing on the same identical facts. Therefore, with the consent of both the parties,

we proceed to hear these three appeals together and to pass a consolidated order for the sake of convenience.

3. First, we shall take up appeal in ITA No.675/PUN/2019 for A.Y. 2010-11.

4. The assessee raised three grounds of appeal amongst which the only issue emanates for our consideration is as to whether the CIT(A) justified in confirming the addition u/s. 80IB(10) of the Act.

5. We find the present issue is similar to earlier years involving A.Ys. 2006-07 to 2009-10. We note that the assessee claimed deduction u/s. 80IB(10) of the Act for the project which was not completed on or before 31-03-2008. The ld. AR fairly conceded that the consolidated order of this Tribunal in assessee's own case in ITA Nos. 1695 to 1698, 2464/PN/2012 and 88/PUN/2013 for A.Ys. 2006-07 to 2009-10 wherein this Tribunal upheld the orders of lower authorities in denying deduction u/s. 80IB(10) of the Act. We note that this Tribunal in assessee's own case vide consolidated order dated 30-11-2015 held the assessee is not entitled to claim deduction u/s. 80IB(10) of the Act for the project which was not completed on or before 31-03-2008. The relevant portion from Para Nos. 18 to 20 is reproduced here-in-below for ready reference :

> *"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 issue coming to the issues raised by the assessee before us raised by the assessee before us. We find that . 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 pro ject 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."

6. In the light of the above, we hold that the assessee is not entitled to claim deduction u/s. 80IB(10) of the Act for the project construction which was not completed before the stipulated period as prescribed u/s. 80IB(10)(a)(i) of the Act. Thus, the order of CIT(A) is justified and grounds raised by the assessee are dismissed.

7. In the result, the appeal of assessee is dismissed.

ITA Nos. 676 & 677/PUN/2019, A.Ys. 2011-12 & 2012-13

8. Both sides are unanimous in stating that the issue raised in the appeal and the facts in ITA Nos.676 & 677/PUN/2019 are identical to ITA No. 675/PUN/2019. Since, the facts in ITA Nos.676 & 677/PUN/2019 are

similar to ITA No.675/PUN/2019, the findings given by us while deciding the grounds of appeal of assessee in ITA No. 675/PUN/2019 would *mutatis mutandis* apply to ITA Nos.676 & 677/PUN/2019, as well. The appeals of assessee are dismissed, accordingly.

9. In the result, all the appeals of assessee are dismissed.

Order pronounced in the open court on 02nd August, 2022.

Sd/-	Sd/-
(Inturi Rama Rao)	(S.S. Viswanethra Ravi)
ACCOUNTANT MEMBER	JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 02nd August, 2022.
रवि

<u>आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :</u>

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-6, Pune
4. The Pr. CIT-5, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

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