IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD

BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT &
Ms. MADHUMITA ROY, JUDICIAL MEMBER

I.T.A. Nos. 1228 & 2025/Ahd/2017
(Assessment Years : 2012-13 & 2013-14)

The DCIT / ACIT, Circle – 1(1)(1), Vadodara.	Vs.	M/s. Cryogas Equipment Pvt. Ltd., A-36, Ghanshyam Nagar Society – 2, GIDC Road, Manjalpur, Vadodara–390 011.

[PAN No. AADCC 6489 M]

(**Appellant**) .. (**Respondent**)

Assessee by : Shri Vinod Tanwani, Sr. D.R.
Revenue by : Shri Mukund Bakshi, A.R.

Date of Hearing 10.06.2019
Date of Pronouncement 01.07.2019

O R D E R

PER Ms. MADHUMITA ROY - JM:

Both the instant appeals filed by the revenue are directed against the separate orders dated 01.02.2017 & 27.06.2017 passed by the Commissioner of Income Tax (Appeals)-1, Vadodara under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to "the Act") arising out of the order dated 24.03.2015 & 30.03.2016 passed by the ITO, Ward – 1(1)(1), Vadodara for the Assessment Years 2012-13 & 2013-14 respectively.

Since both the appeals relate to the same assessee, the same are heard analogously and are being disposed of by a common order.

ITA No. 1228/Ahd/2017 A.Y. 2012-13:

2. The Revenue has filed the following grounds of appeal:-

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT (Appeals) erred in deleting the disallowance of Rs.11,92,955/- made on account of expenses in foreign currency without appreciating the findings of Assessing Officer in the assessment order and in view of circular No. 7 of 2009 of the Board, as held in the case of SKF Boilers & Driers (P) Ltd. (2012) 343 ITR 385/206 Taxman 19/18 taxmann. Com / 325 (AAR-New Delhi).

2. On the facts and circumstances of the case and in law, the Ld. CIT (Appeals) erred in deleting the reduction in net profit of eligible business made by the AO, without correctly appreciating the fact that while calculating the exemption u/s 10AA the reasonableness of the profits from the eligible business is also to be ascertained as per the provisions of section 10AA(9) r.w.s 80IA(10) of the IT. Act, which the AO has taken as that which was reasonably deemed to have been derived there from after comparison with that of a sister concern, manufacturing same product at the same locality.

3. The appellant craves leave to add to, amend or alter the above grounds as may be deemed necessary.

Relief claimed in appeal

It is prayed that the order of the CIT (Appeals) be set aside and that of the Assessing Officer be restored."

3. **Ground No.1** The revenue has challenged the order passed by the Learned CIT(A) in deleting the disallowance of Rs.11,92,955/- made on account of expenses in foreign currency without appreciating the findings of Assessing Officer in the Assessment Order.

4. During the course of assessment proceeding, it was observed that the assessee has submitted total seven 15CA Certificates thereby making payment in foreign currency, where TDS was not deducted. Show-cause dated 24.02.2015, therefore, was issued. In reply whereof, the assessee submitted the copy of the account of M/s. Gasworld.com Ltd. where the assessee claimed total expenses of Rs.11,92,955/- during the year under consideration. The assessee further submitted that such form 15CB being the CA Certificate determines the tax, if any on subject income. Payments made against Import Purchases constitutes Business Income of the Overseas Supplier and the same is taxable in India in the event if it is attributable to the business connection and/or permanent establishment in India in terms of section 9(1)(i) and respective Double Tax Avoidance Agreement. It was further contended that in the absence of any income chargeable to tax in India there cannot be any application of section 195 on the basis of the ratio laid down in the matter of GE India, reported in 327 ITR 456 (SC). The assessee further submitted that the RBI has revised the Form 15CB and Form 15CA w.e.f. 01.10.2013 and also exempted certain class of payments from requirement of obtaining such Certificate. Trade payments do not find any place in the said list which has stirred the Banks to demand for CA Certificate in new Form 15CB. In that view of the matter, once the CA certified that TDS is not applicable; the assessee remitted the forex which in turn were the business transaction required. Such contention of the assessee was not found suitable by the Learned AO. The Learned AO was of the view that

in view of the provision of section 5(2)(b) r.w.s. 9(1)(i) the said income is deemed to accrue or arise in India and therefore the appellant was liable to deduct tax at source and the expenses of Rs.11,92,955 was disallowed which was in turn was deleted by the Learned CIT(A). Hence the revenue's appeal before us.

5. At the time of hearing of the instant appeal, the Learned Counsel appearing for the assessee submitted before us that the AO wrongly disallowed the payment made by the appellant for Advertisement fee and Sponsorship fee when the payee does not have permanent establishment in India. The payment was made outside India and thus the income to the foreign parties cannot be deemed to accrue or arisen in India. He, therefore relied upon the judgment passed by the Learned CIT(A). It was further contended that the issue is squarely covered by number of judgments passed by the Hon'ble Apex Court in the matter of G. E. India Technology Center Pvt. Ltd. reported in 327 ITR 456 (SC), Toshoku Ltd-vs-CIT reported in 1981 AIR 148 (SC). However, the Learned DR relied upon the order passed by the Learned AO.

6. Heard the respective parties, perused the relevant materials available on record. It appears from the records that the appellant incurred expenses pertain to Advertisement and other general business promotion through engagement of a party in UK. The relevant invoice raised by the said party was also before the authorities below wherefrom it was revealed that the party do not fall in the nature of technical,

managerial or consultancy services, but pure marketing service was rendered by the non-resident for promotion of business of the appellant outside India in a particular specified territory. According to the assessee, unless an amount can be said to have accrued or arisen in India or deemed to have accrued or arisen in India, the provisions of section 195 is not attributed and consequently the provisions of section 40(a)(i) is also not applicable.

We have also carefully considered the judgment passed in the matter of G. E. India Technology Center Pvt. Ltd. reported in 327 ITR 456 (SC) and Toshoku Ltd.-vs-CIT reported in 1981 AIR 148 (SC). Relying upon the said judgments, we find that the Learned CIT(A) deleted such disallowance with the following observation:

> *"10.2. I have considered the appellant's submission and the AO's observations. The payment disallowed by the AO has been made by the appellant for Advertisement fee and Sponsorship fees and the payee does not have any permanent establishment in India, The services in relation to such payments have been made outside India. Accordingly, the income in relation to such payments to the foreign parties cannot be deemed to have accrued or arisen in India, The appellant has relied upon several judicial pronouncements in its submission as per which the payments to nonresident for rendering services outside India is not taxable in India in absence of any PE in India. The fact of withdrawal of Circular No.23 dated 23/07/1969 and Circular No.786 dated 07/02/2000 by issuing the Circular No.7/2009 dated 22/10/2009 has also been considered in such decisions. Hence, the action of the AO of disallowing these expenses is not correct and accordingly such disallowances are directed to be deleted."*

Taking into consideration the entire aspect of the mater, we find when the payee does not have any permanent establishment in India and

when the payment were made outside in India for such services then such payment to foreign parties ought not to have been considered as accrued or arisen in India by the Learned AO which is not at par with the ratio laid down in the judgments passed by the Hon'ble Supreme Court as discussed above. Respectfully following the same, we do not find any infirmity in deleting the same by the Learned CIT(A) so as to warrant interference. We thus confirm the same. Hence, Revenue's ground of appeal is dismissed.

7. **Ground No.2** The revenue has challenged the order passed by the Learned CIT(A) in deleting the reduction in net profit of eligible business made by the AO.

8. During the assessment proceeding, it was observed that a group company M/s IWI Cryogenic Vaporisation Systems India Pvt. Ltd. having the same registered office and having manufacturing unit in the vicinity of the manufacturing unit of the appellant was also manufacturing and selling the similar products in addition to trading activity. It was further observed by the Learned AO that assessee reported much higher net profit ratio in comparison to the net profit reported by the said group company. The said group company was not qualifying for any specific exemption/deduction and the net profit reported was very low in comparison to the net profit reported by the assessee claiming exemption of income u/s 10AA. A show-cause, therefore, dated 04.03.2015 was issued as to why such net profit should

not be considered to be to the extent of net profit of the group company namely M/s. IWI Cryogenic Vaporisation Systems India Pvt. Ltd. for the purpose of computing exemption u/s 10AA. The reply rendered by the assessee was not found suitable. The assessee has not offered any justification for higher profits reported by it in comparison to the profits reported in the case of the sister concern as reported is credited receipts also which are almost 50% of its total turnover as observed by the Learned AO. He, therefore, considered 5% net profit are reasonable in the case of the instant assessee from allowable business for the purpose of exemption u/s 10AA which was calculated to Rs.21,83,472/- and added to the income of the assessee. In appeal, the same was deleted by the Learned CIT(A) relying upon the judgment passed by the Co-ordinate bench in the matter of Pramukh International. Hence the instant appeal before us.

9. At the time of hearing of the instant appeal, it was submitted by the Learned Counsel appearing for the assessee that the case is squarely covered by the judgment passed by the Co-ordinate bench in the matter of Pramukh International, Surat-vs-Department of Income Tax which was followed by the Learned CIT(A) while allowing the appeal preferred by the assessee. He thus, relied upon the order passed by the first appellate authority. On the contrary, the Learned DR failed to controvert the contention made by the assessee's counsel in support of his case.

10. Heard the respective parties, perused the relevant materials available on records. It appears from the records that while deleting disallowance made by the Learned AO the Learned CIT(A) observed as follows:

> *"5.2. I have considered the appellant's submission and the AO's observations. The ground No.2 is related to the addition made by the AO as per provisions of sec.10AA(9) r.w.s* ***80IA(10).*** *The AO's finding is that a group company of the appellant company viz. M/s. IWI Cryogenic Vaporisation System (I) Pvt. Ltd. has same registered office and is having manufacturing unit in the vicinity of the appellant's manufacturing unit and it is also manufacturing the same type of product. The AO has compared the appellant's net profit ratio of 23.97% with the Net profit ratio of 1.82% of the sister concern and then has arrived at a conclusion that the profit shown by the appellant is excessive and has accordingly restricted the net profit of the appellant to 5% for the purpose of computing profit in respect of eligible business for allowing deduction u/s.10AA.*
>
> *5.2.1. The appellant's claim is that there is no business transaction between the appellant and sister concern, neither there is any evidences to show that it has arranged its affairs in a manner to inflate its profits from eligible business. Accordingly, the provisions of sec. 10AA(9) are not applicable. The appellant has also relied upon certain decisions of Tribunal as reproduced above. Thus, primary condition in sec.10AA(9) r.w.s. 80IA(10) are absent in the present case. The decision of jurisdictional Tribunal in the case of M/s, Pramukh International (supra) is also applicable to the facts of this case. Hence, the reduction in net profit of eligible business made by the AO by invoking this section is directed to be deleted and the AO is directed to allow deduction u/s.10AA on the basis of net profit reflected in P&L a/c. of the appellant company."*

We have also considered the order passed by the Co-ordinate Bench which was before us. Relevant portion whereof is as follows:

> *"7. We have heard the rival contentions and perused the material on record. Solitary grievance of the Revenue in this appeal is against the*

action of ld. CIT(A) deleting the disallowance u/s 10AA of the Act Asst. Year 2007-08 at Rs. 1,42,85,423/- on profits earned from running the unit under SEZ. We find that Revenue has raised two grounds which are inter connected against the order of ld. CIT(A) wherein it has been held that both the alternatives namely invoking of provisions of section 10AA(9) r.w.s. 80IA(10) of the Act was not justified on the part of Assessing Officer and secondly goods manufactured from outside labourers on job work basis are also to be deemed as manufactured goods by units running in SEZ. While examining the first issue we observe that ld. Assessing Officer has not objected to the eligibility of assessee towards deduction u/s 10AA of the Act which undoubtedly proves that assessee has complied with all the basic conditions required for claiming deduction u/s 10AA of the Act. The issue raised is only towards the quantum of deduction u/s 10AA of the Act. We find that ld. Assessing Officer gathered information relating to gross profit rates and net profit rates of other assessees engaged in similar kind of business activities relating to manufacturing and export of cutting and polished diamonds and observed great variation in relation to GP and NP rates as well as operating expenditure. On the basis of these statistics of ld. Assessing Officer was of the belief that assessee intentionally tried to show huge profits in order to form capital as the profits are deductible @ 100% from the undertaking working under SEZ. It was for this reason that he invoked the provisions of section 10AA(9) r.w.s. 80IA(10) of the Act and accordingly estimated the NP @ 2% of the total turnover as against 18.94% declared by the assessee and calculated the deduction u/s 10AA at Rs.16,86,590/-.

Asst. Year 2007-08 7.1 We further observe that there is no iota of evidence put forth by the Revenue which indicates that book results are defective or certain expenses have been incurred outside the books or excess revenue has been achieved from the foreign buyers. It seems that ld. Assessing Officer has made presumption by applying results of other industries/sister concern on an estimate basis without pointing out any defect in the business transaction entered by the assessee.

7.2 We further find that in the case of CIT vs. Schmetz India (P) Ltd. (2012) 26 taxmann.com 336 (Bom) has held as under :- With regard to the first issue it is found that the Tribunal has considered the entire evidence and on facts come to the conclusion that the profits earned by Kandla division of the assessee is not abnormally high due to any

arrangement between the assessee and its German Principal. The Tribunal correctly held that extraordinary profits cannot lead to the conclusion that this is an arrangement between the parties. This would penalize efficient functioning. Further, the authorities have also recorded a finding that the industrial sewing machine needles imported and traded by the Mumbai division are different from those manufactured and exported by (he Kandla division. Consequently, this also negatives any arrangement between the parties to show extraordinary profits in respect of its Kandla division so as to claim deduction under section 10A. These are findings one of fact. The revenue have not been able to show that the findings are perverse or arbitrary. In the circumstances, issues raised by the revenue do not raise substantial questions of law in the instant facts and are, therefore, dismissed. [Para 8] 7.3 We observe that the Co-ordinate Bench, Delhi in the case ofA.T. Kearney India (P) Ltd. vs. Addl. CIT, Range-1, New Delhi in IT Appeal No.348(Delhi) of 2013 for Asst. Year 2009-10 (2014) 50 taxmann.com 26 (Delhi-Trib) dealt with similar issue and while deciding the same has held as under :-

11. Adverting to the facts of the extant case, we find that the AO simply relied on the TP study report submitted by the assessee to form a bedrock for the disallowance of the part of the amount of deduction u/s 10A, without firstly showing that there existed any arrangement between the assessee and its overseas related party, by which the transactions were so arranged as to produce more than the ordinary profits in the hands of the assessee. The Asst. Year 2007-08 assessment year under consideration is 2009-10. Neither the proviso to sub-section (10) existed at that time, nor such a proviso can be applied as we are dealing with an international transaction and not specified domestic transaction. Under these circumstances, we are of the considered opinion that the impugned order upholding the invocation of sub-sec. (10) of sec. 80-1A cannot be countenanced to this extent. Ergo, it is held that the Id. CIT(A) erred in sustaining the disallowance made by the Assessing Officer by restricting the amount of deduction u/s 10A of the Act to Rs. 2.63 crore as against Rs. 8.22 crore claimed by the assessee. The impugned order on this issue is overturned and it is directed to allow deduction as claimed.

8. Now going into the aspects raised in second ground as to whether assessee is eligible for deduction u/s 10AA for goods manufactured

from outside source on job work basis by way of sending raw material for cutting and polishing and in the case of SEZ, we find that there are some practical aspects attached with the SEZ. Units of Special Economic Zone are normally located little far from the main city which happens to be so in the case of assessee where the SEZ was located at 20-22 kms. away from Surat city. It is well evident that business is generally centred in the main town with skilled labourers having their small place of business. In the case of SEZ units when the entrepreneurs come across such a situation where the export orders have to be met before a particular dead line and the staff available in the unit may not be sufficient to cope up with such a situation, then the only option available with the assessee is to send the raw material to outside labour parties for getting them manufactured in a finished form. It is also known that the SEZ is a custom bound area and every movement of goods/ material/asset has to pass through the check of officer of the Central Excise and Customs Department deputed at the gates and the details of such goods/raw material/asset are entered therein. Therefore, had there been any violation of SEZ rules then such movement would have Asst. Year 2007-08 been restricted. Further in order to examine this aspect that whether the goods which are manufactured on job work basis are covered under the manufacturing activities. Ld. AR has relied on the decision of the Tribunal (Delhi) in the case of Rajiv Bhatnagar vs. DCIT ITA No.1026/Del/2011 wherein similar issue has been dealt with and while deciding the issue in favour of the assessee the Co-ordinate Bench vide its order dated 17.12.2012 has observed as under :-

"12. After having considered the facts, material on record and other relevant details, we find that all the conditions to qualify for deduction u/s 80IB of the Act is found to have been fulfilled by the assessee, inasmuch as, first conditions of employing 10 or more labour when use of power is not disputed has been fulfilled because courts have held that contract labour also qualifies for deduction as envisaged under relevant provisions and useful reference can be made by the decision of Hon'ble Gujarat High Court in the case of CIT vs. Prithviraj Bhoorchand, 280 ITR 94, head notes of which are as under:

Industrial undertaking- special deduction under section 801- Condition precedent

-employment of specified number of employees-workers engaged on contract labour basis - Finding that assessee controlled the work and the manner of doing it-Workers were employees for purposes of section 80-1-LT. Act, 1961, s.80-1".

Similarly, it is also settled position of law that outsourcing of some of the processes will not disqualify the assessee from claiming or allowing deduction if end product is otherwise eligible for deduction. So far as deduction u/s 80IB of manufacturing of card board boxes from kraft paper is concerned, it is settled law that transforming in the corrugated sheets after having transformed in the shape of a box and the box is again in a flat position for easy transportation when flat position paper corrugated boxes are the final products which is eligible for deduction and our this view can be fortified by Hon'ble Madras High Court decision in the case of CIT vs. M/s Zainab Trading Pvt. Ltd. in Tax case Appeal Nos.1204, 1205 & 1206 and AMP 1207 of 2010 dated 7th February, 2011 in which it has been held as under:

"The Revenue has come forward with these appeals and seeks to raise the following question of law as substantial question of law: & quot;e : Whether on the facts and in the circumstances of the case, the Appellate Tribunal was right in holding that the assessee is entitled to deduction u/s 80IB of the Act, treating the production of corrugated boxes from kraft sheets as manufacture for the purpose of Section 80IB of the Act, is valid?

Asst. Year 2007-08

2. To appreciate the stand of the appellant, it is necessary to refer to the brief facts of the case. The respondent/assessee company claims that it is engaged in the activity of manufacturing of paper corrugated boxes and on that basis claimed deduction under Section 80IB of the Income-tax Act, on the profits derived in its business. According to the respondent/assesses, it procures paper corrugated sheets of different sizes, which is its raw material, put them into the designed machines for chiseling them at the required places in order to fold those sheets and pin them at the folded points and after pinning at the folded points and after the sheet got transformed in the shape of a box, the box is again kept in a flat position for easy transportation. That flat positioned paper corrugated boxes are the final products of the respondent assessee.

3. According to the appellant, since the corrugated sheet in the process of being folded into a box, it has not lost its original characteristics of corrugated sheet, no manufacturing activity had taken place and therefore, the ingredients of Section 80IB of the Act, are not attracted.

4. The Commissioner of Income-tax (Appeals) however differed from the Assessing Authority and took the view that the corrugated sheets once are shaped into corrugated boxes, that would amount to a 'manufacturing activity and therefore, the respondent/assessee was entitled for deduction under Section 801B of the Act. The Commissioner of Income- tax (Appeals) therefore directed the Assessing Officer to ascertain the exact quantum of deduction after making proper verification to grant the relief.*

5. The Tribunal also took the same view and held that the conversion of corrugated sheets into boxes would amount to 'manufacture' having noted the nature of activity of the respondent/assessee, which disclose that the plain corrugated sheets are put into the designing machine in order to chisel them into different shapes and pin them at the folded points to convert the plain sheets into corrugated boxes.

6. We are also convinced that such an activity of transforming the plain corrugated sheets into a different product of boxes, though to gain space for transportation, such boxes are kept in a folded position, one cannot say that the boxes continue to retain its original characteristics of corrugated sheets. Therefore, there is no scope to take a different view than what has been stated by the Commissioner of Income-tax (Appeals), as confirmed by the Tribunal. Such determination came to be made by both the authorities based on the facts placed before them and with reference to which, we do not find any serious legal lacuna, there is no scope to interfere with the same, inasmuch as there is no question of law, much less substantial question of law involved. "

Asst. Year 2007-08

14. Since all the conditions laid down under the relevant provisions have been complied with, therefore, we are of the view that the action of the authorities below in not allowing the claim of the assessee u/s 801B is unwarranted and uncalled for. As such, while accepting the appeal of

the assessee, we direct to grant deduction u/s 801B of the Act as claimed by the assessee."

9. We further observe that ld. AR has relied on the decision of Hon. Bombay High Court in the case of CIT vs. Anglo French Drug Co.(Eastern) Ltd.191 ITR 0092 (Bom), wherein it has been held as under :-

"It is not necessary that the manufacturing company must manufacture the goods by its own plant and machinery at its own factory. If, in substance, the manufacturing company has employed another company for getting the goods manufactured by it under its own supervision or control, the assessee can be considered as a company engaged in manufacturing of goods and, thus, an industrial company. It is not absolutely necessary that the assessee must depute the supervisory staff or exercise direct supervision over the manufacturing process. It is sufficient if, on an overall view of the matter, it is found that it was the assessee-company which was the real manufacturer and the assessee had merely employed the agency of someone else through whom the goods were caused to be manufactured. It is also not necessary that the assessee must pay the wages of the workers employed in the manufacturing process.--CIT vs. Neo Pharma Pvt. Ltd. (1982) 28 CTR (Bom) 223 : (1982) 137 ITR S79 (Bom) : TC24R.210 followed."

10. We also observe that Hon. Calcutta High Court in the case of Addl.CIT vs. A. Mukherjee & Co. (P) Ltd. 113 ITR 0718 (Cal) has held as under :-

The argument is that unless an assessee owns a manufacturing plant, he cannot be a manufacturer and similarly unless he himself does the binding or packing he cannot be a manufacturer. In order that a publisher of books should be a manufacturer of books it is wholly unnecessary for him either to be an owner of a printing press or to be a book-binder himself. A paper is not a book, though it is printed on papers. A publisher may get the books printed from any printer but the printer is not the manufacturer but a mere contractor. The findings of the Tribunal conclusively show that the assessee was carrying on the activity of manufacturing and Asst. Year 2007-08 also of processing of books which are also goods.--CIT vs. Casino (P) Ltd. (1973) 91 ITR 289

(Ker) : TC24R.272#1 concurred with; CIT vs. Commercial Laws of India Pvt Ltd. (1977) 107 ITR 822 (Mad) : TC24R.246 dissented from.

11. Respectfully following the judgment of Hon. Bombay High Court and that of Calcutta High Court and also the decision of the Co-ordinate Bench and in view of our above discussion we are of the considered view that assessee in the course of running its undertaking in SEZ is allowed to send raw material outside the SEZ area for getting it in a finished form on job work basis through outside labourers and further this activity of getting goods manufactured through outside sources is duly covered under the manufacturing activities.

12. We have also come across the assessment orders u/s 143(3) of the Act in the case of assessee for Asst. Years 2008-09, 2009-10 & 2010-11 and observe that no disallowance has been made in the deduction claimed u/s 10AA of the Act and GP rates of 19.92%, 17.84% and 16.46% and NP rates of 14.47%, 13.64% and 13.73% respectively have been accepted by the Assessing Officer and no proportionate disallowance has been made for profits earned from goods manufactured from outside source on job work basis.

13. Summarizing both the issues we are of the view that ld. Assessing Officer was not justified in invoking the provisions of section 10AA(9) of the Act as there was no material evidence put on record and a specific finding to work out the basis to estimate reasonable profits by vehemently applying net profit rate at 2% as Asst. Year 2007-08 against 18.94% declared by the assessee without appreciating the facts that business house having a similar type of activity cannot end up at a similar level of GP/NP as much depends on the business strategy, quality of goods sold, rates negotiated with the buyers and optimum utilization of the resources including the employees and machines. We do not find any reason to interfere with the finding of ld. CIT(A). We uphold the same. Accordingly, ground no.1 is dismissed."

Having heard the Learned Counsel appearing for the parties, having regard to the facts and circumstances of the case particularly the judgment passed by the Co-ordinate Bench, we find no infirmity in the order passed by the Learned CIT(A) in deleting the reduction in net profit

of allowable business as made by the Learned AO wrongly invoking the provision of section 10AA(9) r.w.s. 80IA(10) of the Act. We thus confirm the same. Hence, revenue's ground of appeal is found to be devoid of any merit and thus dismissed.

ITA No.2025/Ahd/2017 for A.Y. 2013-14:

11. In this appeal issues are identical to that of the issues already been dealt with by us in ITA No.1228/Ahd/2017 for A.Y. 2012-13 and in the absence of any changed circumstances the same shall apply mutatis mutandis. Hence, the appeal preferred by the revenue is also dismissed.

12. In the combined result, both the revenue's appeals are dismissed.

This Order pronounced in Open Court on	**01/07/2019**

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 01/07/2019
Príti Yadav, Sr.PS

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

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

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad