

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No.1226/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2014-15)

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| Intime Properties Ltd Hyderabad PAN:AABCI5676A (Appellant) | Vs. | Dy.CIT Circle 2(1) Hyderabad (Respondent) |
| निर्धारित द्वारा / Assessee by: | | |
| Adv Madhur Agarwal and CA Paresh Sondagar | | |
| राजस्व द्वारा / Revenue by:: | | |
| Shri Ranjan Agrawala, Sr. DR | | |
| सुनवाई की तारीख / Date of hearing: | | |
| 19 / 11 / 2025 | | |
| घोषणा की तारीख / Pronouncement: | | |
| 26 / 11 / 2025 | | |

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

This appeal is filed by Intime Properties Ltd ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals)-52, Mumbai ("Ld. CIT(A)") dated 30.05.2025 for the A.Y 2014-15.

2. The assessee has raised the following grounds of appeal:

On the facts and circumstances of the case, the Ld. CIT(A) erred in upholding the action of the Ld.AO of not granting the deduction under section 80IA(4)(iii) of the Act in respect of the interest on income tax refund of Rs 38,98,773. The appellant humbly prays before your Honors that deduction under section 80IA(4)(iii) of the Act ought to be granted on the interest on income tax refund of Rs 38,98,773.

The Appellant craves to add, alter, amend or omit the grounds of appeal before or during the hearing of the appeal.

3. The brief facts of the case are that the assessee is a company engaged in the business of developing and maintaining industrial and non-industrial parks. The assessee earns revenue mainly from leasing/licensing of space, maintenance of space, and also from sale of developed area in the non-industrial park. The assessee filed its return of income for the Assessment Year 2014-15 on 30.11.2014, declaring total income of Rs.4,68,76,570/- after claiming deduction under Section 80-IA of the Income Tax Act, 1961 ("the Act") of Rs.26,73,12,820/- under the normal provisions of the Act. The assessee admitted book profit of Rs.28,05,74,172/- under the MAT provisions. The case of the assessee was selected for scrutiny under CASS and notice under section 143(2) of the Act was issued on 28.08.2015. After considering the submissions of the assessee, the Ld. AO computed the total income of the assessee at Rs.5,07,75,345/-, after allowing deduction under section 80-IA of the Act of Rs.26,62,22,377/- under normal provisions, and book profit of Rs.28,05,74,172/- under MAT provisions. Accordingly, the Ld. AO

reduced the deduction claimed by the assessee under section 80IA of the Act from Rs.26,73,12,820/- to Rs.26,62,22,377/-.

4. Aggrieved with the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A), however, dismissed the appeal of the assessee.

5. Aggrieved with the order of the Ld. CIT (A), the assessee is now in appeal before this Tribunal. At the outset, the Learned Authorised Representative ("Ld. AR") submitted that the sole issue in this appeal relates to the non-allowance of deduction under section 80-IA of the Act in respect of interest received on income-tax refund amounting to Rs.38,98,773/-. In this regard, the Ld. AR invited our attention to the assessment order and submitted that the Ld. AO did not assign any finding as to why deduction under section 80-IA of the Act was denied on the interest received on income-tax refund. The Ld. AR further referred to para nos. 9 to 11 of the order of the Ld. CIT(A) and submitted that the assessee had relied on the decision of the coordinate bench of ITAT in the case of ITO v. Hiranandani Builders, ITA No.4613/Mum/2013 (order dated 28.10.2015) before the Ld. CIT(A), wherein the Tribunal allowed deduction under section 80-IA of the Act on interest received on income-tax refund. On further appeal, against the said order of the Tribunal, the Hon'ble Bombay High Court in ITA No.1413/2016 dated 10.01.2019 dismissed the appeal of the Revenue, holding that no substantial question of law arises. The Ld. AR submitted that the Ld. CIT(A) refused to follow the above decision on the ground that

in the assessee's case, the refund and interest pertained to AY 2012-13, and the assessee had not claimed deduction under section 80-IA of the Act in that year. The Ld. CIT(A) held that as it was the first year of claim, interest pertaining to an earlier year cannot qualify for deduction. Countering this, the Ld. AR argued that the interest was received during the year under appeal, and therefore, even if the refund relates to AY 2012-13, the interest is taxable only on receipt basis, and hence deduction must also be allowed in the year of receipt. In support of their argument, reliance was also placed on the judgment of the Hon'ble Bombay High Court in the case of Gateway Terminals India Pvt. Ltd. v. DCIT (479 ITR 726), wherein it was held that interest on TDS refund received by an eligible undertaking qualifies for deduction under section 80-IA of the Act. Accordingly, the Ld. AR prayed before the Bench to allow deduction under section 80-IA of the Act in respect of interest received on income-tax refund amounting to Rs.38,98,773/-.

6. Per contra, the Learned Departmental Representative ("Ld. DR") relied on the order of the Ld. CIT(A) and submitted that the decision in the case of ITO vs. Hiranandani Builders (supra) is distinguishable, as according to the Ld. CIT(A), the interest received by the assessee pertains to AY 2012-13, which is not the year of claim of deduction. The Ld. DR further argued that even if deduction under section 80-IA of the Act is to be allowed, only the proportionate interest pertaining to the year under consideration should be considered.

7. We have carefully considered the rival submissions and perused the material available on record as well as the judicial precedents relied upon. It is an admitted position that the interest on income-tax refund of Rs.38,98,773/- was received during the year under appeal. The contention of the Ld. CIT(A) that the interest pertains to AY 2012-13 and hence deduction cannot be allowed, is not correct in law. In our considered view, the interest on income-tax refund is taxable only on receipt basis. Therefore, once the interest is taxable in the year of receipt, the claim of deduction under section 80-IA of the Act must also be examined in the same year, irrespective of the year to which the refund pertains. Thus, the Ld. CIT(A)'s finding that interest pertaining to AY 2012-13 cannot be considered for deduction in AY 2014-15 is legally unsustainable. Now, whether the assessee is eligible for deduction under section 80IA of the Act on the interest received on income tax refund is concerned, we have gone through para nos.61 to 66.4 of the judgment of the Hon'ble Bombay High Court in the case of Gateway Terminals India Pvt. Ltd. v. DCIT (Supra), which is to the following effect:

“61. The second issue that arises for our consideration is whether the Appellant is entitled to the deduction under Section 80IA of the IT Act on the interest received by it on TDS refunded to it.

62. With respect to interest on TDS refund, the TDS was wrongly deducted by the vendors/customers of the Appellant from the payment made to the Appellant for using the port facility and, therefore, the TDS wrongly deducted was directly a part of the sales receipt of the Appellant from the eligible business. The TDS refund arose to the Appellant due to the excess TDS cut by the customers against payment to be made to the Appellant and therefore the TDS was a part of

the business receipt of the Appellant. Had the customers not deducted excess amount of TDS, the Appellant would have received the surplus funds which would be used for the business purpose/ repayment of loans etc.

63. The aforesaid facts shows that the TDS refund received by the Appellant is an integral part connected with the receipt of business income by the Appellant and the same cannot be separated from the business of the Appellant. In these circumstances, in our view, the Appellant is entitled to deduction under Section 80IA of IT Act, on the interest received by it on TDS refunded to it.

64. Having arrived at the aforesaid conclusions, it would be necessary for us to deal with the judgements relied upon by Mr. Sharma for the Revenue.

65.1 The first judgement relied upon by Mr. Sharma for the Revenue is Liberty India (supra). In this judgement the Hon'ble Supreme Court held

(a) Section 80IB provides for allowing of deduction in respect of profits and gains derived from the eligible business. The words "derived from" are narrower in connotation as compared to the words "attributable to". In other words, by using the expression "derived from", Parliament intended to cover sources not beyond the first degree.

(b) Sections 80I, 80IA and 80IB of the IT Act have a common scheme, and if so read, it is clear that the said sections provide for incentives in the form of deductions which are linked to profits and not to investment.

(c) Analysing the concept of remission of duty drawback and DEPB (Duty Entitlement Passbook Scheme), the Hon'ble Supreme Court was satisfied that remission of duty is on account of the statutory/ policy provisions of the Customs Act/ Scheme (s) framed by the Government of India. In these circumstances, the Hon'ble Supreme Court has that the profits derived by way of such incentives do not fall within the expression "profits derived from industrial undertaking" in Section 80IB.

65.2 In our view, the judgement in Liberty India (supra), is distinguishable on facts. In Liberty India (supra), the Hon'ble Supreme Court held that the words "derived from" intended to cover sources of first degree i.e., profit and gains derived directly from the business. On this basis, the Hon'ble Supreme Court held that, analysing the concept of remission

of duty drawback and DEPB (Duty Entitlement Passbook Scheme), it was satisfied that the remission of duty was on account of Statutory/policy provisions of the Customs Act/ Scheme (s) framed by the Government of India, and therefore, held that the profits derived by way of such incentives did not fall within the expression "profits derived from industrial undertaking" in Section 80IB.

65.3 In the present case, the interest sought as the deduction is derived directly from the eligible business of the Appellant as held by us hereinabove. As held by the Hon'ble Supreme Court in Meghalaya Steels (supra), there is a direct nexus between the interest and the business of the Appellant. Therefore, the facts of the present case are clearly distinguishable from the facts in the case of Liberty India."

8. On a perusal of the above, we find that the Hon'ble Bombay High Court has held that the assessee is entitled to deduction under section 80-IA of the Act on interest on TDS refund, following the principle that such interest arises from business activities of the eligible undertaking. Therefore, respectfully following the decision of the Hon'ble Bombay High Court, we hold that the assessee is entitled for deduction u/s 80IA of the Act on account of interest received on income tax refund. Further, the contention of the Ld. DR that only proportionate interest relating to the year under appeal should be allowed is also misplaced. Interest on income-tax refund is not earned proportionately; it is received as a statutory compensation and is taxable in toto in the year of receipt. Therefore, the entire amount of interest received during the year must be considered for deduction under section 80-IA of the Act. In view of the above discussion, facts on record, and judicial precedents, in our considered opinion, the contention of the Ld. CIT(A) that refund pertains to AY 2012-13 is irrelevant, as interest is taxable in the

year of receipt and the contention of the Ld. DR regarding proportionate interest is also incorrect, as interest on income tax refund is assessable in the year of receipt in entirety. Therefore, we hold that the assessee is eligible for deduction under section 80-IA of the Act on interest on income-tax refund of Rs.38,98,773/- for the year under consideration. Accordingly, the Ld. AO is directed to allow deduction under section 80-IA of the Act to the assessee on the interest received on income-tax refund amounting to Rs.38,98,773/-.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the Open Court on 26th November 2025.

Sd/-

Sd/-

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| (VIJAY PAL RAO) VICE PRESIDENT | (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER |
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Hyderabad, dated 26th November 2025

Vinodan/sps

Copy to:

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| 3 | Pr. CIT - Hyderabad |
| 4 | DR, ITAT Hyderabad Benches |
| 5 | Guard File |

By Order