IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1413 OF 2016

Principal Commissioner of Income Tax(Central)-1 … Appellant

V/s.

Hiranandani Builders … Respondent

Mr.Suresh Kumar for the Appellant.
Mr.K.Gopal with Mr.Tanmay Phadke for the Respondent.

CORAM : AKIL KURESHI AND
M.S.SANKLECHA, JJ.
DATE : JANUARY 10, 2019.

P.C.:-

1. The appeal is filed by the revenue challenging the judgment of the Income Tax Appellate Tribunal.

2. Following question has been presented for our consideration:

> "Whether on the facts and in the circumstances of the case and in law, the ITAT was justified in upholding the Ld. CIT(A) decision that interest received has a direct nexus with the development activities and hence eligible for deduction u/s. 80IA ignoring the fact that it is an interest received on excess payment of tax which has no nexus with

> the business activity and it has not been derived from the I.T. Parks/S.E.Z. undertaking?”

3. The issue concerns the respondent-assessee for the assessment year 2009-10 and revolves around the assessee's claim of deduction under Section 80IA of Income Tax Act, 1961 (“the Act” for short). The respondent-assessee is engaged in the business of developing I.T.Parks and S.E.Z. and derives its income from leasing out such properties. Undisputedly, such income qualifies for deduction under Section 80IA of the Act. The revenue however contests the assessee's claim of such deduction for various other receipts such as interest on income tax refund, interest on FDRs etc.

4. CIT (Appeals) and the Tribunal concurrently hold that such income was also derived from the assessee's principal business of leasing out the premises in I.T. Parks and S.E.Z. areas. We are broadly in agreement with the view of the Tribunal. The assessee having paid excess income tax, received refund with interest. Further, the assessee had obtained deposits from the lessees for performance guarantee which would not

invite any interest. The assessee parked such fund in bank deposits which earned interest. The entire transaction of leasing out the property at specified lease rent upon the lessees agreeing to offer deposit without claiming interest thereon is integral part of the assessee's principal business of leasing out the premises in I.T. Parks and S.E.Z. and therefore, Tribunal correctly concluded that such income can be stated to have been derived from the assessee's eligible business. No question of law arises. Tax Appeal is therefore, dismissed.

(M.S.SANKLECHA,J.) **(AKIL KURESHI,J.)**

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