**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

104 **Date of Decision : 21.1.2020**

ITA-332-2019 (O&M)

The Pr. Commissioner of Income Tax, Gurgaon
...... Appellant

Versus

M/s. Orbit Infrastructure Pvt. Ltd. ...... Respondent

ITA-312-2019 (O&M)

The Pr. Commissioner of Income Tax, Gurgaon
...... Appellant

Versus

M/s. Orbit Infrastructure Pvt. Ltd. ...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE AVNEESH JHINGAN
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Present : Mr. T.K.Joshi, Senior Standing counsel with
Mr. Vikram Bali, Junior Standing counsel
for the appellant.

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<u>AJAY TEWARI, J. (Oral)</u>

1. Vide this common order we shall dispose of above said two appeals since common question of law is involved therein.

2. For the sake of convenience facts have been taken from ITA-332-2019.

3. This appeal has been filed by the Revenue under Section 260A of the Income Tax Act, 1961 (for short 'the Act) against the order

dated 25.9.2018 passed by the Income Tax Appellate Tribunal Delhi Bench “E” New Delhi whereby the disallowance which was claimed by the assessee under Section 80ID has been confirmed. The appeals pertain to the assessment years 2008-09 and 2009-2010, claiming following substantial question of law :-

> *i. Whether, on the facts and circumstances of the case and in law, the Hon'ble ITAT was right in deleting and addition of Rs. 5,51,66,956/- made by the AO on account of disallowance of deduction claimed u/s 80ID of the IT Act, 1961?*

4. Brief facts are that the assessee had constructed a hotel and engaged in running of the hotel and claimed the benefit of Rs.5,51,66,956/- deduction under Section 80ID of the Act. The Assessing Officer came to the conclusion that since in the balance sheet the hotel was shown as 'under construction' and since he was of the opinion that completion certificate issued by Executive Engineering Municipal Corporation, Gurgaon was 'not genuine', he disallowed the claim.

5. Aggrieved against the order of Assessing Officer the assessee moved to Commissioner of Income Tax (A) and submitted various pieces of evidence to show that in fact despite the assertion that the hotel was under construction yet it was fully operational. These evidence included inter alia certification from the Ministry of Tourism, list of customers, payment received from the customer through banking channels etc. On the scrutiny of these pieces of evidence the CIT (A) came to the conclusion that in fact the assessee had successfully proved that the hotel

was functional and therefore entitled to deduction under Section 80ID of the Act. The Tribunal has discussed the entire evidence and has confirmed the finding of the Commissioner.

6. Accordingly, no substantial question of law arises. Consequently, the appeals stand dismissed.

7. Since the main cases have been dismissed, the pending application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(AVNEESH JHINGAN)
JUDGE

21.1.2020
anuradha

Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No