

## AO couldn't revisit claim of sec. 80-IA relief if it was allowed after thorough examination during assessment

**Summary – The High Court of Gujarat in a recent case of Ranjit Projects (P.) Ltd., (the Assessee) held that where during assessment, assessee's claim under section 80-IA was allowed after thorough examination and Assessing Officer's satisfaction, re-assessment would not be permissible.**

### Facts

- The petitioner-company, was engaged in infrastructure development projects in sector like Road, bridges. It constructed a Four-lane Rail Over Bridge (ROB) in terms of the agreement with Gujarat State Road Development Corporation [GSRDC]. It constructed the said over-bridge on Build, Operate and Transfer (BOT) basis for which it entered into a "concession agreement" with GSRDC wherein, it was allowed to collect toll at a specified rate for a certain period.
- Based on the agreement between petitioner and GSRDC, the Government of Gujarat issued a notification authorizing it to collect toll from ROB.
- The petitioner claimed deduction under section 80-IA with respect to its income of toll collection which was accepted by the Assessing Officer in the original assessment.
- The Assessing Officer reopened assessment under section 147 regarding disallowance of petitioner claim for deduction under section 80-IA. The Assessing Officer held a brief that GSRDC was a company and not a statutory body or local authority, and therefore, condition laid down in section 80-IA(4)(i)(a) was not fulfilled. He further observed that the petitioner had only sub-contracted the project allotted to GSRDC by the State Government. The Government had issued a notification authorizing collection of toll, which was also issued in favour of GSRDC and not the assessee company.
- On writ, the assessee submitted that—
  - During original assessment several questions were raised by the Assessing Officer with respect to petitioner's claim and only upon being satisfied same as granted.
  - Entire issue was examined at length and all aspects of the petitioner's claim for deduction under section 80-IA(4) were gone into.

### Held

- Deduction under section 80-IA(4) was virtually the sole claim of the assessee in the return filed. This claim was thoroughly examined. In the scrutiny, the Assessing Officer raised several questions.
- In response to such queries, the assessee gave detailed answers. The fact that the assessee had entered into an agreement with the Gujarat State Road Development Corporation (GSRDC) was on record even along with the original return. In a note appended to the return, the petitioner had pointed out that GSRDC is a 100% State Government Company working under the Road and Building Department of the Government of Gujarat. The petitioner was collecting toll under a notification

issued by the State Government. This was further elaborated in the reply filed by the petitioner during the assessment.

- It can thus be seen that the sole claim of the assessee for deduction under section 80-IA(4) came up for consideration during scrutiny assessment. On being satisfied that the assessee was entitled to such claim, the assessment order was passed. Any attempt on the part of the Assessing Officer now to revisit such a claim would be based on a mere change of opinion.
- Under the circumstances, even within four years, it would not be open for the respondent to reopen the assessment. The agreement between the petitioner and the GSRDC was on record. The petitioner had pointed out that GSRDC is a 100% Government owned company. The status of the contractee was very much before the Assessing Officer. He examined the entire claim. Having found that the claim was valid, the same was granted. This would include the eligibility as well as the computation of deduction. Under the circumstances, reopening cannot be permitted.
- In the result, the petition is allowed. The impugned notice is quashed. The petition is disposed of accordingly.