

## **No denial of sec. 80-IB relief if completion certificate was delayed by Municipal Authority**

**Summary – The High Court of Bombay in a recent case of Hindustan Samuh Awas Ltd., (the Assessee) held that where assessee-builder undertook a housing project which was completed on time and an application was moved in time for seeking completion certificate from Municipal Authority but same was issued to assessee with delay, that delay could not be attributed to assessee and assessee was entitled to exemption under section 80-IB(10)**

### **Facts**

- The assessee was a builder and developer company. They had undertaken a Mega Housing Project on a layout covering an area of about 25 acre.
- The project was approved in February, 2000. The assessee completed part of the project and obtained completion certificate for that part of the project from Municipal Corporation on 10-10-2008. The assessee sought for exemption under section 80-IB(10). Their claim was denied by the Assessing Officer on the ground that Completion certificate was not issued on or prior to 31-3-2008.
- On appeal before the Commissioner (Appeals), same was dismissed.
- On second appeal, the Tribunal held that in view of the fact that the assessee had made application seeking completion certificate prior to 31-3-2008, the date on which the completion certificate was issued was not material. It was also held that the delay in obtaining completion certificate was not attributable to the assessee. This delay was beyond their control.
- On appeal:

### **Held**

- If a project is really complete before 31-3-2008 and an application is moved quite in time, for seeking completion certificate from the Municipal Authorities, and if they do not take steps urgently and delay the issuance of completion certificate from their side, can it be said that such certificate would alone decide the date of completion of the project? The answer is in negative.
- In the facts of this case, admittedly, the architect of the project had given a certificate prior to 31-3-2008. The assessee submitted application to the Municipal authority along with such certificate well in time on 25-03-2008. It seems that the Municipal Authorities directed the assessee to deposit certain amount for issuance of Completion Certificate on 27-3-2008 and the amount was accordingly deposited on 31-3-2008. Thereafter, the certificate was issued in October, 2008. This delay cannot be attributed to the assessee.
- In view of this, the project, for which exemption is sought, was completed prior to 31-3-2008. Both the appeals are accordingly dismissed.