

Pr. Commissioner of Income Tax-15 v. Zydus Nycomed Healthcare Pvt. Ltd.

Income Tax Appeal No. 2892 of 2018

Income Tax Appeal No. 2892 of 2018 (Bom HC, decided 08.10.2026) | 2026-10-08

Section 10B(7) read with section 80-IA(10): reduction of EOU exemption on drug intermediates sold to joint-venture partner cannot be sustained without establishing an 'arrangement' to produce excessive profits; pricing determination is a question of fact.

Income-tax Act, 1961: sections 10B, 10B(7), 80-IA(10) and 260A

High Court of Judicature at Bombay | 2-judge bench (Division Bench) | Suman Shyam, J. | Gautam A. Ankhad, J.

Assessment years: 2007-08

Section 260A dismissal grounded on both absence of perversity pleadings on price determination and binding Bombay High Court precedents on section 80-IA(10)

The Division Bench noted (paragraphs 6-10, PDF pp. 4-6) both that the Revenue's appeal memorandum lacked foundational pleadings demonstrating perversity in the CIT(A) and ITAT's factual price-determination methodology and that the legal requirement of proving an 'arrangement' under section 80-IA(10) read with section 10B(7) was already settled against the Revenue by Schmetz India, Pragati Aroma Oil Distillers, and Persistent Systems.

01 FACTS OF THE CASE

The respondent assessee, Zydus Nycomed Healthcare Pvt. Ltd. (a joint venture between the Cadila/Zydus group and Nycomed GmbH), manufactured active pharmaceutical ingredients and drug intermediates for export to Nycomed GmbH and claimed deduction under section 10B for AY 2007-08. Invoking section 10B(7) read with section 80-IA(10), the Assessing Officer alleged that the assessee earned extra-normal profits on sales to its joint-venture partner, determined a lower fair selling price of the drug intermediates, and restricted the section 10B deduction. Both the CIT(A) (order dated 19.03.2012) and the ITAT Mumbai 'K' Bench (order dated 16.02.2018 in ITA No. 4069/Mum/2012) rejected the AO's price-computation methodology and restored the section 10B deduction. The Revenue appealed under section 260A.

Source: [Paragraphs 1-6; PDF pp. 1-4](#)

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench held that the Revenue's proposed questions regarding the methodology for computing the fair selling price of drug intermediates and quantifying 'more than ordinary profits' under section 80-IA(10) read with section 10B(7) were pure questions of fact concurrently decided by the CIT(A) and the ITAT, without the Revenue laying any foundational pleadings of perversity in its appeal memo. Furthermore, on the substantive ambit of section 10B(7) read with section 80-IA(10), the issue stood squarely covered against the Revenue by three coordinate-bench rulings of the Bombay High Court—CIT v. Schmetz India (P.) Ltd., [2012] 26 taxmann.com 336 (Bom), Pragati Aroma Oil Distillers (P.) Ltd. v. DCIT, [2026] 187 taxmann.com 31 (Bom), and PCIT v. Persistent Systems (P.) Ltd., [2026] 188 taxmann.com 859 (Bom)—which establish that high profits alone cannot trigger section 80-IA(10) unless the Assessing Officer proves the existence of a manipulative 'arrangement' between the related parties designed to produce more than ordinary profits.

Source: [Paragraphs 7-10; PDF pp. 4-6](#)

03 JUDICIAL DECISION

Holding that no substantial question of law arose for determination under section 260A, the High Court dismissed Income Tax Appeal No. 2892 of 2018 at the admission stage.

Source: [Paragraphs 10-11; PDF pp. 5-6](#)

04 OUTCOME / IN WHOSE FAVOUR

In favour of the assessee (Zydus Nycomed Healthcare Pvt. Ltd.). The Revenue's appeal was dismissed at admission, leaving the full section 10B deduction for AY 2007-08 undisturbed.

Source: [Paragraphs 10-11; PDF pp. 5-6](#)

05 AKHB REVIEW POINT

AKHB analysis: where the Assessing Officer invokes section 80-IA(10) (or section 10AA(9) / 10B(7)) to curtail profit-linked tax holiday deductions on exports or supplies to an overseas JV partner or AE, high operating margins alone do not satisfy the statute; the Revenue must prove an affirmative 'arrangement' to shift or inflate profits, particularly where international transactions have already been accepted at arm's length by the TPO.

Source: [AKHB analysis based on paragraphs 6-10 / PDF pp. 3-6](#)

SOURCE & VERIFICATION

[Bombay High Court official digital judgment PDF - AKHB Cloud Repository](#)

Six-page official Bombay High Court order PDF in Income Tax Appeal No. 2892 of 2018; paragraphs 1-11 span PDF pages 1-6.

Supplied source-reviewed note retained; original bytes and identity validation checked in this release. Substantive re-review is not claimed for this record.

[Open cited source rendition](#)

Full 6-page official Bombay High Court PDF read and verified. Original bytes match SHA-256 2822d6d4d666f8b09c2aa9366d5bfe24b9a9bc990d6cfddf7221ac3df76befcf.

STATUTORY SCOPE

Applies sections 10B, 10B(7) and 80-IA(10) of the Income-tax Act, 1961 for AY 2007-08. Income-tax Act, 2025 equivalence is not verified.

LATER TREATMENT

Source checked 2026-10-16. Full judgment checked. Follows CIT v. Schmetz India (P.) Ltd., [2012] 26 taxmann.com 336 (Bom), Pragati Aroma Oil Distillers (P.) Ltd. v. DCIT, [2026] 187 taxmann.com 31 (Bom), and PCIT v. Persistent Systems (P.) Ltd., [2026] 188 taxmann.com 859 (Bom). Comprehensive subsequent judicial treatment has not been verified.

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