Initial assessment year under Section 80IB(11A) is the assessment year in which the taxpayer commenced its business and not the assessment year when the said section has been amended

Background
Recently, the Gujarat High Court in the case of Anand Food and Dairy Products (the taxpayer) held that the taxpayer began its business of processing, preservation and packaging of vegetables and fruits from June 2001 therefore, the initial assessment year (AY) under Section 80IB(11A) of the Income-tax Act, 1961 (the Act) would be AY 2002-03. Though, the taxpayer became entitled to the benefit of deduction under Section 80IB(11A) of the Act with effect from 1 April 2005, after the amendment in the said sub-section (11A). It would not change the ‘initial AY’, which has been clearly defined under Section 80IB(14)(c)(iv) of the Act to mean the AY relevant to the year in which the taxpayer commenced its business. Since five years had already elapsed from the initial AY, the taxpayer was entitled to the deduction of only 25 per cent of the profits and gains from its business in the relevant AY.

Facts of the case
- The taxpayer is engaged in the business of processing, preservation and packaging of vegetables and fruits.
- In relation to the assessment years (AY) 2007-08, 2008-09 and 2009-2010, the taxpayer claimed deduction under Section 80IB(11A) of the Act at 100 per cent of the profits and gains of such business. However, the Assessing Officer (AO) held that the taxpayer was entitled to the deduction at the rate of 25 per cent under Section 80IB(11A) of the Act.
- According to the AO, the taxpayer had commenced its business with effect from June 2001. Accordingly, the initial AY was 2002-03 and, beginning from this year, five years would end by 2006-07. The taxpayer is entitled to 100 per cent deduction of the profit from such business for five years, beginning with the initial AY and, therefore, is entitled to the deduction of 25 per cent of the profit for all the three years under appeal.
- The Tribunal took note of the fact that the expression ‘initial assessment year’ has already been defined in Section 80IB(14)(c) of the Act. As per such definition, the initial AY for an undertaking engaged in the business of processing, preservation and packaging of fruits or vegetables means the AY relevant to the previous year in which the undertaking begins such business.
- The taxpayer has begun such business with effect from June 2001. Therefore, the AY relevant to previous year 1 April 2001 to 31 March 2002 would be the initial AY. The taxpayer would be entitled to 100 per cent deduction only for the first five years including the initial AY, which would last up to AY 2006-07 and thereafter, the taxpayer would be entitled to 25 per cent deduction for the next five years.

The High Court’s ruling
- Section 80IB(11A) of the Act provides for the benefit for ten consecutive years beginning with the initial AY.

1 Anand Food and Dairy Products v. ITO [TAX APPEAL No. 174-176 of 2016]
Our comments

The Supreme Court in the case of Bajaj Tempo Ltd. held that a provision in the taxing statute granting incentives for promoting growth and development should be construed liberally. Since a provision intended for promoting economic growth has to be interpreted liberally, the restriction on it too has to be construed to advance the objective of the provision and not to frustrate it. However, in the present case, the High Court while dealing with deduction provisions of Section 80IB observed that in a taxing statute, the provisions have to be construed strictly, and there is no room for equity therein.

The High Court held that the taxpayer became entitled to the deduction under Section 80IB(11A) of the Act only with effect from 1 April 2005, due to the amendment of its provisions. However, the initial AY would be AY 2002-03 since the taxpayer began its business with effect from June 2001. Accordingly, the taxpayer was entitled to the deduction of only 25 per cent of the profits and gains from its business.

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2 Bajaj Tempo Ltd. v. CIT [1992] 62 Taxman 480 (SC)
The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.