

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE 'B' BANGALORE**

**BEFORE SHRI N.V.VASUDEVAN, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**IT(TP)A No.641 & 642(Bang.)/2013
(Assessment years : 2005-06 & 2008-09)**

The Dy. Commissioner of Income-tax,
Circle-12(2),
Nrupathunga Road,
Bangalore

Appellant

Vs

M/s Quality Engg. & Software Tech.Pvt.Ltd.
No.55, Quest Towers, Whitefield Main Road,
Bangalore 560 048.

**Date of hearing : 01-09-2015
Date of pronouncement : 04-09-2015**

**Appellant by : Shri Y. Rajendra, CIT
Respondent by : Shri Anukur Pai Dhungal**

ORDER

PER SHRI S. RIFAUR RAHMAN, AM;

These two appeals of the Revenue are directed against the orders of the learned CIT (A)-III, Bangalore, dated 4.2.2013 and 28.02.2013 for the AYS 2005-06 and 2008-09 respectively. The relevant assessment years are 2005-06 and 2008-09.

2. The Revenue, in its grounds of appeal for both the asst. years under consideration, had raised an identical issue, namely, that **“the CIT (A) erred in law in directing the AO to exclude the reimbursement of**

expenses incurred in foreign currency both from the export turnover as well as from total turnover for the purpose of computation of deduction u/s 10A of the Act.”

3. As the issue raised in these appeals is similar for both the assessment years, they were heard together and disposed of by this common order.

4. Briefly stated, the assessee was engaged in providing engineering solutions for advanced technology products in aerospace, power generation, oil and gas and industrial products domain through computer aided engineering analysis and software services which were in the nature of IT enabled services. For the **AY 2005-06**, giving effect to the order of the CIT-III, Bangalore u/s 263 of the Act dated 30.8.2010, the AO had, in his order dated 31.12.2010, reduced the expenditure of Rs.41.78 lakhs incurred towards communication expenses and Rs.6.94 crores towards travelling, boarding and conveyance expenses in foreign currency in connection with providing technical services outside India from the export turnover for the purpose of computation of deduction u/s 10A of the Act. Likewise, for the **AY 2008-09**, the AO had also reduced the communication, travelling and conveyance expenses etc ., from the export turnover for the purpose of computing 10A deduction.

5. Aggrieved, the assessee had approached, along with other issues, the CIT (A) for both the assessment years for relief. After due consideration

of the submission of the assessee and also quoting and extracting the ruling of the Hon'ble Karnataka High Court in the case of Tata Elxsi Limited [349 ITR 98 (Kar)] wherein the Hon'ble Court had confirmed the findings of this Tribunal in ITA No.70/2009 dated 30.08.2011, the CIT (A) directed the AO '**...to reduce the expenditure incurred on foreign currency from both export turnover and total turnover for the purpose of computation of deduction under section 10A of the Act.**' [Refer: Para 6.3. on page 20 of CIT(A)'s order for the AY 2008-09].

6. Aggrieved with the findings of the CIT (A), the Revenue has come up before us with the present appeals. During the course of hearing, the learned DR submitted that the learned CIT (A) had erred in law in directing the AO to exclude the reimbursement of expenses incurred in foreign currency both from the export turnover as well as from the total turnover for the purpose of computation of deduction u/s 10A of the Act without appreciating the fact that the Statute allows exclusion of such expenditure only from export turnover by way of specific definition of export turnover as envisaged by sub-clause (4) of Explanation 2 below sub-section (8) of s. 10A of the Act and that the total turnover has not been defined in this section. It was, therefore, argued that the stand of the learned CIT (A) for both the assessment years under consideration require to be reversed.

7. On the other hand, the learned AR supported the findings of the CIT (A) and urged that the appeals of the Revenue deserve to be quashed.

8. We have carefully considered the submissions of both the parties and also perused the case records. At this juncture, it is appropriate to refer findings of the earlier coordinated Bench of this Tribunal, in an identical issue, in the case of Tata Elxsi Limited in ITA NO.70/2009 dated 30.08.2011 which has been upheld by the Hon'ble jurisdictional High court [349 ITR 98 (Kar)] after analyzing the issue. Respectfully following the ruling of the Hon'ble Jurisdictional High Court in the case of Tata Elxsi Limited [supra] on a similar issue, we are of the view that there is no any infirmity in the findings of the CIT (A) for both the assessment years under consideration necessitating our interference. In substance, the appeals of the Revenue for both the assessment years are dismissed.

9. In the result, the revenue's appeals for the AYs 2005-06 and 2008-09 are dismissed.

Order pronounced in the open court on the 4th September, 2015.

Sd/-
(N.V.VASUDEVAN)
JUDICIAL MEMBER
Place: Bangalore
Dated: 04-09-2015
am*

Sd/-
(S. RIFAUR AHMAN)
ACCOUNTANT MEMBER

Copy to :

1. The Assessee
2. The Revenue
3. CIT(A)
4. CIT
5. DR
6. GF (B'lore)

By Order

AR, ITAT, Bangalore