

आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.574/Mds/2017

निर्धारण वर्ष /Assessment Year: 2006-07

M/s.Amtex Software Solutions Pvt.
Ltd., (formerly known as Amtex
Infotech Pvt. Ltd.), 75, Century
Centre, TTK Road, Alwarpet,
Chennai-600 118.

Vs. The Dy. Commissioner of
Income Tax, Company Circle
1(1), Chennai.

[PAN: AAFCA 0638 J]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by

: Mrs.J. Sree Vidya, Advocate

प्रत्यर्थी की ओर से /Respondent by

: Mr.Sasi Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 12.06.2017

घोषणा की तारीख /Date of Pronouncement

: 12.06.2017

आदेश / O R D E R

PER GEORGE MATHAN, JUDICIAL MEMBER:

ITA No.574/Mds/2017 is an appeal filed by the assessee against the
Order of Commissioner of Income Tax (Appeals)-5, Chennai, in ITA
No.10/CIT(A)-5/2014-15 dated 12.01.2017 for the AY 2006-07.

2. Mr.Sasi Kumar, JCIT, represented on behalf of the Respondent and Mrs.J. Sree Vidya, Advocate represented on behalf of the Appellant.

3. It is submitted by the Ld.AR that only issue in the assessee's appeal was that the assessee is a company which had filed its return of income for the relevant assessment year claiming deduction u/s.10B of the Act. The same was originally allowed in the assessment completed u/s.143(3) of the Act. Subsequently, the same was re-opened and the claim of deduction u/s.10B was denied. The assessee had alternatively claimed deduction u/s.10A of the Act. The assessee claim of deduction u/s.10A of the Act was denied by the AO on the ground that the same was not made in the return of income filed by the assessee. On appeal, the Ld.CIT(A) upheld the finding of the AO. It was submitted by the Ld.AR that the AY 2006-07 was the initial assessment year. It was a further submission that for the AYs 2007-08 & 2008-09, the assessee claim of deduction u/s.10B has been allowed. For the assessment year 2009-10, the assessee's claim of deduction u/s.10B had been denied by the AO. On appeal, Ld.CIT(A) had granted benefit of deduction u/s.10A to the assessee. It was a submission that the Revenue has not preferred appeal against the order of the Ld.CIT(A) for the AY 2009-10. It was a further submission that for the AY 2010-11, the DRP has directed the AO to verify the claim of deduction u/s.10A and AO as per the direction of the DRP has verified the claim and granted the assessee the benefit of deduction u/s.10A. It was a submission that the assessee had no objection if the AO is directed to

verify the assessee's claim for deduction u/s.10A if directed by the Tribunal in view of the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd. reported in 284 ITR 323 wherein the Hon'ble Supreme Court categorically held as under:

4. The decision in question is that the power of the Tribunal under section 254 of the Income-tax Act, 1961, is to entertain for the first time a point of law provided the fact on the basis of which the issue of law can be raised before the Tribunal. The decision does not in any way relate to the power of the Assessing Officer to entertain a claim for deduction otherwise than by filing a revised return. In the circumstances of the case, we dismiss the civil appeal. However, we make it clear that the issue in this case is limited to the power of the assessing authority and does not impinge on the power of the Income-tax Appellate Tribunal under section 254 of the Income-tax Act, 1961. There shall be no order as to costs.

4. In reply, the Ld.DR vehemently supported the order of the AO and the CIT(A).

5. We have considered the rival submissions. On perusal of the decision of the Hon'ble Supreme Court in the case of Goetze (India) Ltd., which clearly shows that the Tribunal does have the powers to entertain for the first time a point of law provided the facts on the basis of which the issue of law can be raised is available before the Tribunal. In view of the principles laid down by the Hon'ble Supreme Court in the case of Goetze (India) Ltd. referred to supra, we restore the issue in this appeal to the file of the AO to verify the claim of deduction u/s.10A in the case of the assessee and grant accordingly.

6. In the result, the appeal filed by the assessee stands partly allowed for statistical purposes.

Order pronounced in the Open Court on June 12, 2017, at Chennai.

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: June 12, 2017.

TLN

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF