

IN THE INCOME TAX APPELLATE TRIBUNAL  
“B” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER  
AND SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

IT(TP)A No.690/Bang/2015
Assessment year : 2010-11

The Assistant Commissioner of Income Tax, Circle 2(1)(1), Bangalore.	Vs.	M/s. Logica Pvt. Ltd., (now merged with CGI Information Systems & Management Consultants Pvt Ltd), No.95/1 & 95/2, Electronic City, Tower-2, Phase-1 (West), Bangalore – 560 100. <b>PAN: AAACL 3330M</b>
APPELLANT		RESPONDENT

Appellant by	:	Shri T. Suryanarayana, Advocate
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT)-2, Bengaluru

Date of hearing	:	06.07.2017
Date of Pronouncement	:	07.07.2017

**ORDER**

*Per Sunil Kumar Yadav, Judicial Member*

This appeal is preferred by the revenue against the directions of the DRP dated 25.02.2015 for the assessment year 2010-11 *inter alia* on the following grounds:-

- “1. The directions of the Dispute Resolution Panel are opposed to law and facts of the case.

2. On the facts and in the circumstances of the case the Dispute Resolution Panel erred in law in directing the AO to exclude the expenditure 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 and 10AA, 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 Subsection (8) of Section 10A and the total turnover has not been defined in this Section.

3. On the facts and in the circumstances of the case the Dispute Resolution Panel erred in directing the AO to compute deduction u/s 10A & 10AA in the above manner by placing reliance on the decision of Hon'ble High Court of Karnataka in the case of M/s Tata Elxsi Ltd., which has not become final since the same has not been accepted by the Department and SLPs are pending before the Hon'ble Supreme Court.”

2. The only issue involved in this appeal is whether the Dispute Resolution Panel erred in law in directing the AO to exclude the expenditure 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 and 10AA of the Income-tax Act, 1961 [“the Act”] following the judgment of Hon'ble jurisdictional High Court in the case of Tata Elxsi Limited 349 ITR 98 against which judgment the SLPs filed by the department are pending before the Hon'ble Supreme Court.

3. This issue is covered by the judgment of the Hon'ble jurisdictional High Court in the case of *Tata Elxsi Ltd.*, 341 ITR 98 (Kar) in which it has been held that if certain expenses are excluded from the export turnover, the same should also be excluded from the total turnover. Since the DRP

has decided the issue as per judgment of Hon'ble jurisdictional High Court in the case of *Tata Elxsi Ltd. (supra)*, we find no infirmity in the order of DRP. Accordingly, the order of the DRP is confirmed and the appeal of the revenue is dismissed.

Pronounced in the open court on this 7<sup>th</sup> day of July, 2017.

Sd/-

( INTURI RAMA RAO )  
Accountant Member

Sd/-

(SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 7<sup>th</sup> July, 2017.

/ Desai Smurthy /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.