

IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, MUMBAI

BEFORE SHRI G.S. PANNU, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.5426/Mum/2016
(निर्धारण वर्ष / Assessment Year: 2008-09)

ACIT CIR 7(1)2 R.No. 130, 1 st Floor, Aayakar Bhavan, M.K. RD Mumbai Pin:400020	बनाम/ Vs.	Hinduja Global Solutions Ltd. Formersly Known As HTML Global Solutions Ltd. Hinduja House, 171, DR A.B. RD Worli Mumbai Pin:400018
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AA ACT1763A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Revenue by:	Shri Rajesh Kumar Yadav (DR)	
Assessee by:	Shri F.V. Irani (AR)	

सुनवाई की तारीख / Date of Hearing: 09.08.2017
घोषणा की तारीख /Date of Pronouncement: 30.10.2017

आदेश / O R D E R

PER AMARJIT SINGH, JM:

The revenue has filed the present appeal against the order dated 24.06.2016, passed by the Commissioner of Income Tax (Appeals)-13 Mumbai [hereinafter referred to as the “CIT(A)”] relevant to the AY.2008-09.

2. The revenue has raised the following grounds:-

“On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the deduction u/s 10A of the Act on Unit-11 & 111 without appreciating the fact that these Units are mere expansion of already existing Unit-1 and not

independent Units which is in contravention to the provisions of section 10A of the Act.

The appellant craves leave to amend or alter any grounds or add a new ground which may be necessary.”

3. The brief facts of the case, are that the assessee filed its return of income on 29.09.2008 declaring total income to the tune of Rs.1,69,49,418/-. The case was selected for scrutiny. The assessment was completed u/s 143(3) r.w.s. 144C(13) of the Act assessing the total income to the tune of Rs.49,53,45,980/- on 22.11.2012 after making addition on account of transfer pricing adjustment, disallowance u/s 14A of the Act and disallowance u/s 10A of the Act. Consequent to that, the assessee filed an appeal before the ITAT in view of the ITA. No. 254/M/2013 dated 05.06.2013 in which the ITAT set aside the denial of deduction claimed by the assessee u/s 10A of the Act, 1961 in respect of Unit No. II and Unit No.-III and restored the matter before the AO by observing as under:-

“having regard to the rival submissions we are in agreement with the plea of the assessee that the facts and circumstances of the instant case are mutatis mutandis identical to those of the immediately preceding year. By respectfully following the aforesaid judgments, we set aside the assessment order on this point and direct the Assessing Officer to re-decide this issue in consonance with the observations made by the tribunal in the appellate order A.Y. 2005-06.”

4. Thereafter, the notices u/s 142(1) were issued and after giving an opportunity being heard to the assessee. The Assessing Officer denied the deduction u/s 10A of the Act in respect of profit from the Unit-II and Unit-III and assessed the total income to the tune of Rs.48,91,01,501/-. Thereafter, the assessee filed an appeal before the CIT(A) who allowed the

claim of the assessee in respect of profit of Unit 11 & 111 u/s 10A of the Act. Feeling aggrieved, the revenue has filed the present appeal before us.

5. We have heard the argument advanced by the Ld. Representative of the parties and perused the record. The contention of the revenue is that the CIT(A) has wrongly allowed the deduction u/s 10A of the Act in respect of the Unit No. II & III. It is argued that the Representative of the Revenue that Unit No. II & III are merely extension of Unit No. I and these units are not the independent units therefore, the deduction is not required to allowed in view of the provision u/s 10A of the Act, hence, the finding of the CIT(A) in this regard is wrong against law and facts and is liable to be set aside. However, on the other hand, Ld. Representative of the assessee has placed reliance relied upon the order passed by the CIT(A) in question. Before going further it is necessary to advert the finding of the CIT(A) on record.:-

“The AO had disallowed the claim of the appellant for deduction u/s 10A of the Act for unit nos. 11 and 111 for Rs. 33.07 crores and Rs. 14 crores respectively, both totaling Rs.47.07 crores. As has been discussed earlier in this order, this assessment order had been passed by the AO in continuation of similar orders passed for the preceding assessment years. Further, as discussed earlier in this order, this matter has already been decided by the Hon’ble Tribunal in favour of the appellant for AYs. 2005-06 and 2010-11. The relevant extract of the order for AY 2010-11 which inter alia relied on the order of the Hon’ble Tribunal for AY 2005-06 is as follows.”

6. On appraisal of the above mentioned finding, we noticed that the claim of the assessee u/s 10A of the Act, 1961 was allowed on the basis of finding of the Hon’ble ITAT in the assessee’s own case for the A.Ys. 2005-

06 & 2010-11. The factual position is the same. No distinguishable material has been produced before us. No law contrary to the law relied upon the CIT(A) has been produced before us. Therefore, in the said circumstances, we are of the view that the finding of the CIT(A) has passed the order judiciously and correctly which is not required to be interfered with at this appellate stage. Accordingly, this issue is decided in favour of the assessee against the revenue.

7. In the result, the appeal filed by the revenue is hereby ordered to be dismissed.

Order pronounced in the open court on 30.10.2017.

Sd/-

(G. S. PANNU)

लेखा सदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 30.10.2017

V.P. Singh

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai