

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

**BEFORE SHRI JASON P BOAZ, ACCOUNTANT MEMBER
AND SHRI LALIT KUMAR, JUDICIAL MEMBER**

I.T. A. No.1762/Bang/2016
(Assessment Year : 2009-10)

Dy. Commissioner of Income Tax,
Circle 4(1)(2), Bangalore.

.... Appellant.

Vs.

M/s. Manthan Software Services Pvt. Ltd.,
No.40/4, Lavelle Road,
Bangalore-560 001.

..... Respondent.

Appellant By : Smt. Padma Meenakshi, JCIT (D.R)
Respondent By : Shri P. Dinesha, Advocate.

Date of Hearing : 16.01.2018.

Date of Pronouncement : 17.01.2018.

O R D E R

Per Shri Jason P Boaz, A.M. :

This appeal by Revenue is directed against the order of Commissioner of Income Tax (Appeals)-4, Bangalore dt.14.07.2016 for the Assessment Year 2009-10.

2. Briefly stated, the facts relevant for disposal of this appeal are as under :-

2.1 The assessee, a company engaged in the development, manufacture, and consultancy services of computer software / hardware and export thereof, filed its return of income for Assessment Year 2009-10 on 28.8.2009 declaring NIL income after claiming deduction under Section 10A of the Income Tax Act, 1961 (in short 'the Act'). The case was taken up for scrutiny and the assessment completed under Section 143(3) of the Act vide order dt.18.11.2011, wherein the assessee's income was determined at Rs.49,13,911 in view of the restriction of the assessee's claim for deduction under Section 10A of the Act. On appeal, the learned CIT (Appeals) – 4, Bangalore vide order dt.14.7.2016 allowed the assessee's appeal, in respect of its claim for deduction under Section 10A of the Act by following the decision of the Hon'ble Karnataka High Court in the case of CIT Vs. Yokogawa India Limited (341 ITR 385) (Kar).

3.0 Aggrieved by the order of the CIT (Appeals)-4, Bangalore dt.14.7.2016 for Assessment Year 2009-10, Revenue has preferred this appeal wherein it has raised the following grounds :

“1. The order of the learned CIT (Appeals) is opposed to the law and facts of the case.

2. The learned CIT (Appeals) has erred in directing the Assessing Officer to follow the ratio laid down by the Hon'ble High Court in the case of CIT Vs. Yokogawa India Ltd. with regard to the set off of the carry forward losses against the gross total income before computing the deduction under Section 10A of the Act when the Department's SLP before the Hon'ble Supreme Court on this issue is pending adjudication.

3. For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the CIT (Appeals) insofar as it relates to the above grounds may be reversed and that of the Assessing Officer may be restored.

4. The appellant craves leave to add, alter, amend and/or delete any of the grounds that may be urged."

3.1 The Id DR for Revenue was heard in support of the grounds raised (Supra) and placed strong reliance on the finding in the order of the AO on this issue.

3.2 Per contra, the Id AR for the assessee submitted that the assessee's claim for being allowed the deduction claimed u/s 10B of the Act is squarely covered in its favour by the decision of the Hon'ble Karnataka High Court in the case of CIT Vs. Yokogawa India Ltd. (341 ITR 385). It is submitted that the Id CIT(A), following the aforesaid decision, has rightly directed the AO to compute the deduction u/s 10A of the Act before setting off the brought forward losses against the gross total income.

3.3 We have heard the rival contentions and perused and carefully considered the material on record. From a perusal of the details on record it is seen that the AO was of the view that deduction u/s 10A of the Act was to be allowed only after computing the assessee's gross total income and accordingly, restricted the assessee's claim for deduction u/s 10A of the Act.

3.3.1 We find that the issue in dispute before us is squarely covered in favour of the assessee by the decision of the Hon'ble Karnataka High Court in the case of CIT Vs. Yokogawa India Ltd. (2012) 341 ITR 385 (Kar). In its decision the Hon'ble High Court had held that as the income of sec. 10A unit has to be excluded at source itself before arriving at the gross total income and allowed as deduction before setting off brought forward losses. In this view of the matter and respectfully following the decision of the Hon'ble Karnataka High Court in Yokogawa India Ltd. (341 ITR 385), we uphold the impugned order of the Id CIT(A) in directing the AO to compute the deduction u/s 10A of the Act in the case on hand before setting off the carry forward business losses. We hold and direct accordingly. Consequently, the grounds raised by Revenue are dismissed.

4. In the result, the Revenue's appeal for the asst. year 2009-10 is dismissed.

Order pronounced in the open court on the 17th day of Jan., 2018.

Sd/-
(LALIT KUMAR)
Judicial Member

Sd/-
(JASON P BOAZ)
Accountant Member

Bangalore,
Dt. 17.01.2018.

*Reddy gp

Copy to :

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

Senior Private Secretary
Income Tax Appellate Tribunal
Bangalore.