

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B" (SMC), HYDERABAD**

BEFORE SHRI B. RAMAKOTAIAH, ACCOUNTANT MEMBER

I.T.A. No. 304/HYD/2017

Assessment Year: 2011-12

Asst. Commissioner of
Income Tax,
Circle-4(1),
HYDERABAD

M/s. Vision 2K+Inc,
Vs HYDERABAD
[PAN: AACFV4642H]

(Appellant)

(Respondent)

For Revenue : Shri D. Prasad Rao, DR
For Assessee : Shri S. Rama Rao, AR

Date of Hearing : 18-01-2018
Date of Pronouncement : 24-01-2018

ORDER

This is an appeal by Revenue against the order of the Commissioner of Income Tax (Appeals)-1, Hyderabad, dated 11-11-2016. This appeal was filed with a delay of two days. Revenue filed an affidavit for condonation of delay. Satisfying with the prayer of Revenue, the delay is condoned and appeal is admitted to be heard on merits.

2. During the course of assessment proceedings, Assessing Officer (AO) noticed that assessee had claimed exemption u/s. 10B of the Income Tax Act [Act]. Assessee was asked to submit the copies of the approval of the Board appointed by the Central Government. Assessee submitted the approval of the Director STPI but AO was of the opinion that the said letter is

not from Board as per the provisions of Sec.10B. So, the AO did not allow claim of 10B.

3. Before the CIT(A), assessee submitted that they are 100% export oriented firm doing medical transcription. Certificate from Director Software Technology Park of India (STPI) in letter dt. 14-06-2006 extended the 100% EOU license w.e.f. 01-04-2006 to 31-03-2011. Assessee also submitted Hon'ble ITAT decision for the previous year i.e., AY. 2010-11, wherein the Bench allowed the claim of 10B on the basis that in earlier years on a valid approval, assessee has been allowed deduction u/s. 10B. Following the order of ITAT, CIT(A) found no reason to disallow 10B.

4. Revenue has come in appeal stating that Hon'ble ITAT in the case of Infotech Enterprises Limited Vs. CIT [85 ITD 325] Hon'ble Delhi High Court in the case of Regency Creations Ltd., [211 Taxman 152] has held that for the purpose of Section 10B 100% EOU approval is that which is so approved by the Board appointed by the Central Government and not the Board u/s. 14 of the Industries (Development and Regulation) Act, 1951.

5. Ld.DR, submitted that Revenue has gone in appeal before the Hon'ble High Court in the earlier year's order and the matter is subjudice.

6. Ld. Counsel, however, submitted that the grounds raised by Revenue are considered in detail by the Co-ordinate Bench of ITAT in the case of M/s. Mouri Tech P. Ltd., (Formerly Mouri

Soft Solutions P. Ltd) in ITA No. 1307/Hyd/2015, dt. 21-09-2016.

7. I have considered the rival contentions and perused the facts as placed on record. As far as the issue is concerned, Ld.CIT(A) has followed the decision of Hon'ble ITAT for the AY 2010-11, wherein the ITAT has allowed the claim on the basis of the earlier year's approval granted. Therefore, there is no reason to interfere with the order of Ld.CIT(A). However, grounds raised by Revenue includes reliance on the decision of the another Co-ordinate Bench and decision of Hon'ble Delhi High Court. These issues are considered in detail by the Co-ordinate Bench of ITAT in the case of M/s. Mouri Tech P. Ltd., (Formerly Mouri Soft Solutions P. Ltd) (supra) as under:

"5. We have carefully considered the rival submissions and perused the record. We have also carefully perused the judgment of the Hon'ble Delhi High Court as well as decisions rendered by the ITAT, Hyderabad Benches which in turn, were confirmed by the Hon'ble A.P. High Court. Since we are functioning under the jurisdiction of A.P. High Court which is binding on this Bench, we respectfully follow the decision of the Hon'ble A.P. High Court as well as the ITAT, Hyderabad Bench in preference to the view taken by the Hon'ble Delhi High Court and therefore, hold that the assessee is entitled to exemption under section 10B of the Act subject to fulfillment of other conditions.

5.1. Even otherwise, when there are two views possible the one which is in favour of the assessee deserves to be taken into consideration. It is also not out of place to mention that in the case of Smt. K. Sudha Rani the Revenue has accepted the view taken by the Hyderabad Benches for the A.Ys. 2005-06 and 2006-07. The Ld. D.R. could not place anything on record as to why the view taken by the Hyderabad Benches was accepted by the Revenue. In fact, the Hon'ble A.P. High Court had taken note of the same and the assessee-company had continuously projected before the Assessing Officer as well as the CIT(A) that in the case of Smt. K. Sudha Rani exemption was granted under section 10B of the Act even though there was no

separate approval by the Board. Under these circumstances, the Ld. D.R. ought to have obtained proper details as to why the Revenue has accepted the decision of the ITAT as otherwise the only inference possible is that the Revenue has accepted the legal position and therefore did not prefer to go in further appeal. Thus, even on the principles of consistency the Revenue ought not to have preferred a further appeal even in this case. At any rate, consistent with the view taken in the case of other assessees we accept the view of the assessee and hold that the assessee is entitled to claim exemption under section 10B of the Act”.

7.1. Respectfully following the same, I find no merit in the grounds raised and accordingly reject the grounds.

8. In the result, appeal of Revenue is dismissed.

Order pronounced in the open court on 24th January, 2018

Sd/-
(B. RAMAKOTAIAH)
ACCOUNTANT MEMBER

Hyderabad, Dated 24th January, 2018

TNMM

Copy to :

- 1. The Asst. Commissioner of Income Tax, Circle-4(1), Hyderabad.*
- 2. M/s. Vision 2K+Inc, 6-2-929/A, Beside Zee Telugu Channel, Khairatabad, Hyderabad.*
- 3. CIT (Appeals)-1, Hyderabad.*
- 4. Pr.CIT-1, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*