

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri D.S.Sunder Singh, Accountant Member**

ITA No.213/Hyd/2015
(Assessment Year: 2010-11)

FactSet Systems India Private Limited, Hyderabad PAN: AABCF 1445 Q (Appellant)	Vs	ACIT, Circle 17 (1) Hyderabad (Respondent)
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For Assessee :	Shri Vaibhav Mehta
For Revenue :	Shri K.Srinivas Reddy, DR

Date of Hearing:	21.03.2018
Date of Pronouncement:	23.03.2018

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2010-11 against the assessment order passed by the AO u/s 143(3) r.w.s 144C (1) of the Act. The assessee has raised four grounds of appeal.

1. Ground No.1 is general in nature, hence need no adjudication.

2. Ground No.2 and sub-grounds thereunder, are all against the T.P. adjustment made by the AO. On 20.03.2018, the assessee has filed a letter dated 14.03.2018 which reads as under:

“FACTSET – SEE THE ADVANTAGE

14 March 2018

*The Hon'ble 'B' Bench Members
The Income Tax Appellate Tribunal,
Room no. 502, & 505, 5th floor, CGO towers,
Kavadiguda, Secunderabad.*

Dear Sir,

*Appellant : FactSet Systems India Private Limited
(‘the Appellant’)
PAN : AABCF1445Q*

Assessment Year : 2010-11

*Subject : Adjournment of appeal filed under section
253(1)(d) of the Income-tax Act, 1961 (‘the Act’) -
Request*

Reference : ITA No. 213/Hyd-2015

*This is with reference to the captioned appeal posted
for hearing before your Honours on 20 March 2018.*

*In this connection, we would like to bring to your
Honours notice that the Appellant had filed an
application before the Director General of Income Tax,
New Delhi [‘Indian Advance Pricing Agreement (‘APA’)
Authorities] for determination of arm’s length price
(‘ALP’) for the proposed covered transactions for the
financial years 2013-14 to 2017-18 on 30 March
2013. Subsequently, the Central Board of Direct
Taxes notified roll back provisions for APA
programme vide notification no. S.O. 758(E) dated 14
March 2015 (attached as Enclosure 1). The roll back
provisions are applicable for the previous four years,
preceding years for which the APA application is
made. The preceding four previous years for the
Appellant are financial years 2009-10, 2010-11,
2011-12 and 2012-13. Considering the same, the
Appellant opted for an application of roll back
provisions for the financial years 2009-10, 2010-11,
2011-12 and 2012-13.*

*The Appellant submits that the captioned appeal
before the Appellate Tribunal for the financial year
2009-10 relevant to AY 2010-11 is scheduled for the
hearing on 20 March 2018.*

In this regard, the Appellant would like to submit that the APA application filed by the Appellant, including the roll-back application, is concluded between the Appellant and the APA authorities on 23 February 2018. Pursuant to the APA, the Appellant is obligated to file modified return of income ('ROI') under section 92CD of the Income-tax Act, 1961 ('Act') read with Rule 10RA of the Rules for the AYs 2010-11 to 2017-18. The said Rule mandates the assessee to withdraw the appeals pending before the Appellate authorities before filing the modified ROIs.

Relevant extract of Rule 10RA is given below for easy reference:

10RA - Procedure for giving effect to roll back provision of an Agreement

"10RA (4). If any appeal filed by the applicant is pending before the Commissioner (Appeals), Appellate Tribunal or the High Court for a rollback year, on the issue which is the subject matter of the rollback provision for that year, the said appeal to the extent of the subject covered under the agreement shall be withdrawn by the applicant before furnishing the modified return for the said year. "

The Appellant approaches your Honours to provide a short adjournment till the Appellant files a withdrawal letter before the various tax authorities wherein the proceedings are pending for AY 2010-11 to the extent of the subject covered under the APA.

Yours faithfully

For FactSet Systems India Private Limited

Sd/-

Venkata Rama Bhaskara Rao Sannidhi

Authorized Signatory

*CC: Senior Departmental Representative, Bench B,
The Income Tax Appellate Tribunal, Hyderabad"*

3. The learned Counsel for the assessee therefore, sought withdrawal of the grounds against the TP adjustment. Taking the same into consideration, Ground No.2 is rejected as withdrawn.

4. As regards Grounds No.3, we find that it is for exclusion of communication expenses and internet expenses from the export turnover as well as total turnover for the purpose of computing the deduction u/s 10AA of the Act. We find that this issue is covered in favour of the assessee by various decisions of the Tribunal and also the Hon'ble Karnataka High Court in the case of CIT vs. Tata Elxsi Ltd in ITA No.261 of 2014 dated 23.09.2014. Respectfully following the same, we direct the AO to exclude the communication expenses as well as internet expenses both from the export turnover as well as total turnover for the purpose of computing the deduction u/s 10AA of the Act. Ground No.3 is accordingly allowed.

5. As regards Ground No.4 against the levy of interest u/s 234B of the Act is concerned, we find that it is consequential in nature and therefore, the AO is directed to give consequential relief, if any to the assessee and this ground of appeal is treated as allowed for statistical purposes.

6. In the result, assessee's appeal is partly allowed.
Order pronounced in the Open Court on 23rd March, 2018.

Sd/-
(D.S.Sunder Singh)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 23rd March 2018.
Vinodan/sps

Copy to:

- 1 FactSet Systems India (P) Ltd, 5th Floor, Block 3, DLF Cyber City, Plot No.129 to 132, Opp: APHB Colony, Gachibowli, Hyderabad 500034
- 2 Asstt. CIT, Circle 17(1) Hyderabad
- 3 Director of Income Tax (International Taxation) IT Towers, 10-2-3 A C Guards, Hyderabad 500004
- 4 CIT-1 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order