

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH ' A '

BEFORE SHRI N.V. VASUDEVAN, JUDICIAL MEMBER AND
SHRI JASON P BOAZ, ACCOUNTANT MEMBER

I.T. A. No.2668/Bang/2017
(Assessment Year : 2005-06)

Income Tax Officer,
Ward 1(1)(2), Bangalore.
Appellant.

....

Vs.

M/s. Ariba Technologies India Pvt. Ltd.,
No.65/2, Laurel C Block, RMZ Icon, No.51,
Palace Road, Bangalore-560 052.

..... Respondent.

Appellant By : Shri B.R. Ramesh, JCIT (D.R)
Respondent By : Shri Uma Shankar Gautam, Advocate.

Date of Hearing : 9.4.2018.

Date of Pronouncement : 12.4.2018.

O R D E R

Per Shri Jason P Boaz A.M. :

This appeal by Revenue is directed against the order of the
CIT(A)-1, Bangalore dated 31.07.2017 for Assessment Year 2005-06.

2. Briefly stated, the facts of the case are as under:-

2.1 The assessee, a company engaged in the business of providing software development services, filed its return of income for Assessment Year 2005-06 on 30.10.2005 declaring total income of Rs.50,070 after, inter alia, claiming deduction u/s. 10A of the Income Tax Act, 1961 (in short 'the Act'). The case was taken up for scrutiny and the assessment was completed u/s. 143(3) of the Act vide order dated 26.12.2008 wherein the assessee's income was determined at Rs.1,41,91,817 in view of, inter alia, the Assessing Officer ('AO') disallowing the assessee's excess claim for deduction u/s. 10A of the Act and making a T.P. Adjustment of Rs.1,39,96,932 under Section 92CA of the Act. On appeal, the CIT(A)-1, Bangalore partly allowed the assessee's appeal vide order dated 31.07.2017. In doing so, the Id. CIT(A) allowed the assessee's claim for deduction u/s. 10A of the Act following the decision of the Hon'ble Karnataka High Court in the case of CIT v Tata Elxsi Ltd. (349 ITR 98) (Kar).

3.1 Aggrieved by the order of the CIT(A)-1, Bangalore dated 31.07.2017 for Assessment Year 2005-06, Revenue has filed this appeal, raising the following grounds:-

1. The order of the Learned CIT (Appeals), in so far as it is prejudicial to the interest of revenue, is opposed to law and the facts and circumstances of the case.
2. The Ld. CIT (A) erred in allowing the assessee's appeal while the matter on the disputed issue has not reached its finality and is yet to be adjudicated by the Hon'ble Supreme Court.

3. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the Ld. CIT (A) be reversed and that of the Assessing Officer be restored.
4. The appellant craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of appeal.

3.2 The Id. DR was heard in support of the grounds raised.

3.3 We have heard the rival contentions and perused and carefully considered the material on record; including the judicial pronouncement cited. As regards the issue of reduction of the items of foreign travel expenditure incurred in foreign currency for rendering of technical services outside India, the jurisdictional High Court of Karnataka in the case of CIT v Tata Elxsi Ltd (349 ITR 98) (Kar) has held that when certain expenses are excluded from the export turnover for the purposes of computing deduction admissible under the Act; like u/s. 10A of the Act, such expenses are also to be excluded from total turnover, as export turnover is a part of total turnover. The decision in the case of Tata Elxsi Ltd (supra) has also been followed by the Hon'ble Court in its order in the case of DCIT v Motor Industries Co. Ltd., (ITA No. 776/2006, 744/2007 and 1155/2006 dated 13.06.2014), holding that if any expenditure is sought to be removed from export turnover, then it should also be reduced from total turnover for the purposes of computing the eligible deduction u/s. 10A of the Act. In this legal and factual matrix of the case, as discussed above, we find no reason to interfere with or

deviate from the finding rendered by the Id. CIT(A) on this issue, and therefore uphold the same. Consequently, the grounds S.Nos. 1 to 4 raised by revenue are dismissed.

4. In the result, Revenue's appeal for Assessment Year 2005-06 is dismissed.

Order pronounced in the open court on 12th April, 2018.

Sd/-
(N.V. VASUDEVAN)
Judicial Member

Sd/-
(JASON P BOAZ)
Accountant Member

Bangalore,
Dt. 12.04.2018.

*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.