

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER

ITA No. 2772/DEL/2015
[Assessment Year: 2011-12]

The I.T.O
Ward 19(1)
New Delhi

Vs.

M/s OPK E Services Pvt. Ltd
341, 99C, Sainik Farms,
New Delhi

PAN : AAACO 8419 L

[Appellant]

[Respondent]

Date of Hearing : 13.06.2018
Date of Pronouncement : 13.06.2018

Assessee by : Shri Parveen Jindal, CA
Revenue by : Ms. Ashima Neb - Sr DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal filed by the Revenue is directed against the order of the Commissioner of Income Tax (Appeals), Delhi dated 25.02.2015 pertaining to assessment year 2011-12.

2. The first grievance of the Revenue is that the ld. CIT(A) erred in directing the AO to allow deduction of Rs. 68.29 lakhs u/s 10A of the Income-tax Act, 1961 [hereinafter referred to as 'the Act']. The

second grievance of the Revenue is that the CIT(A) erred in deleting the addition of Rs. 89,225/- made by the AO out of repair and maintenance expenses.

3. At the very outset, the ld. AR pointed out that the issues raised by the Revenue have been decided in earlier A.Ys in favour of the assessee and against the Revenue by the order of the Tribunal in assessee's own case for A.Y 2010-11.

4. The ld. DR could not bring any distinguishing decision in favour of the Revenue.

5. We have carefully perused the orders of the authorities below. We find force in the contention of the ld. AR. An identical issue was considered and decided by the Tribunal in assessee's own case in ITA No. 6976/DEL/2014 for A.Y 2010-11. Moreover, we find that while allowing the appeal of the assessee, the CIT(A) has followed the findings of his predecessor in A.Y 2009-10 and 2010-11. The relevant findings of the co-ordinate bench read as under:

"3. On consideration of the facts of the case in the light of the submissions of the parties, it is clear that the issue is covered in favour of the assessee by order is the assessee as well as in the case of M/s. ONS Interactive Solutions Pvt. Ltd. (supra). The Assessing Officer disallowed deduction under [section 10A](#) following his order for assessment year 2009-10 on identical facts. The learned CIT (Appeals) in assessment year 2009-10 allowed the deduction under [section 10A](#) to the assessee, subject to verification of the conditions of [section 10A](#) by the AO. Similar order passed in assessment year under appeal. The Assessing Officer in view of direction of the learned CIT (Appeals) and application of the assessee under section 154 of the I. T. Act vide order dated 9th June, 2016 after verifying the facts allowed deduction under section 10A of the I. T. Act to the assessee. The Departmental appeal for assessment year 2009-10 had already been dismissed. Since the Assessing Officer has already verified the facts and allowed deduction under [section 10A](#), therefore, no grievance of the Department is left for consideration. It may also be noted that the Tribunal in the case of M/s. ONS Interactive Solutions Pvt. Ltd. (supra) also dismissed the Departmental appeal on identical issue. There is no merit in Departmental appeal and the same is accordingly dismissed.

6. Respectfully following the findings of the co-ordinate bench, we decline to interfere. Ground No. 1 raised by the Revenue stands dismissed.

7. Disallowance of any expenditure would increase the profit thereby resulting into the deduction u/s 10A of the Act. Therefore, grievance raised vide Ground No. 2 becomes otiose.

8. In the result, the appeal of the Revenue in ITA No. 2772/DEL/2015 is dismissed.

The order is pronounced in the open court on 13.06.2018.

Sd/-

**[SUDHANSHU SRIVASTAVA]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 13th June, 2018

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi