

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

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KULDIP SINGH, JUDICIAL MEMBER

ITA No. 3794/DEL/2015
[A.Y 2010-11]

Jindal Intellicom Limited
28, Najafgarh Road
New Delhi

Vs.

The I.T.O
Ward - 4(2)
New Delhi

PAN : AAACJ 0226 A

[Appellant]

[Respondent]

Date of Hearing : 11.07.2018

Date of Pronouncement : 12.07.2018

Assessee by : Ms. Ritika Nayyar, CA

Revenue by : Shri Amit Jain, Sr. DR

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER,

This appeal by the assessee is preferred against the order of the Commissioner of Income Tax [Appeals] - V, New Delhi dated 24.02.2015 pertaining to A.Y 2010-11.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in not considering the new ground/additional claim made by the assessee.

3. It is the say of the assessee that the claim arose because of the decision of the Hon'ble Karnataka High Court in the case of Yokogawa India Ltd 341 ITR 385 which entitled the assessee for exemption u/s 10A of the Income-tax Act, 1961 [hereinafter referred to as 'the Act'].

4. Facts on record show that the order pronounced by the Hon'ble Karnataka High Court is dated 09.08.2011 whereas the assessee had filed its return of income on 21.09.2010. Records further show that when the assessee made claim of deduction u/s 10A of the Act, the same was denied by the AO who drew support from the judgement of the Hon'ble Supreme Court in the case of Goetz India Ltd 284 ITR 223 which laid down the ratio that the AO cannot entertain a claim of deduction otherwise than by filing a revised return and since the assessee has not filed any revised return in respect of claiming deduction u/s 10A of the Act, the same was denied.

5. We find that the first appellate authority also heavily relied upon the said judgment of the Hon'ble Supreme Court. In our considered opinion, the said judgment does not put any fetters on the appellate authority in

entertaining legal claims which the assessee is eligible for. In the interest of justice and fair play, we restore this issue to the file of the AO. The AO is directed to entertain the claim of deduction u/s 10A of the Act in the light of judgment given in the case of Yokogawa India Limited [supra] and decide the issue as per the provisions of law after giving reasonable opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee in ITA No. 3794/DEL/2015 is treated as allowed for statistical purposes.

The order is pronounced in the open court on 12 .07.2018.

Sd/-

**[KULDIP SINGH]
JUDICIAL MEMBER**

Sd/-

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

Dated: 12th July, 2018

VL/

Copy forwarded to:

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

Asst. Registrar,
ITAT, New Delhi

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