

आयकर अपीलीय अधिकरण , 'सी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI**

श्री एन .आर .एस .गणेशन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकरअपीलसं/.I.T.A. No. 212/Chny/2018

निर्धारणवर्ष/Assessment Year : 2009-10

OKS Prepress Services Pvt. Ltd.,
(Formerly M/s. Alden Prepress
Services P. Ltd.,)
SP-7A, Gupta Towers, III Floor,
Guindy, Chennai – 600 032.

Deputy Commissioner of Income Tax,
Vs. Corporate Circle 5(1),
Chennai.

[PAN: AACCA 8961F]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

Assessee by
Revenue by

: Shri. T. Banusekar, CA
: Shri Clement Ramesh Kumar, Addl. CIT

सुनवाईकीतारीख/Date of Hearing

: 17.09.2018

घोषणाकीतारीख/Date of Pronouncement

: 19.09.2018

आदेश/ ORDER

PER S. JAYARAMAN, ACCOUNTANT MEMBER:

The assessee filed this appeal against the order of the Commissioner of Income Tax (Appeals)-3, Chennai in ITA No 26/16-17/A-3, dated 29.09.2017 for assessment year 2009-10.

2. M/s. OKS Prepress Services Pvt. Ltd, (Formerly M/s. Alden Prepress Services P. Ltd.), the assessee, is engaged in typesetter, printers and Data processing business. In the return filed for assessment year 2009-10, it claimed deduction u/s. 10B. In the original assessment made, the AO, inter alia, rejected its claim for want of necessary approval from the Board u/s. 10B(vi), which resulted in rejection of the impugned claim /addition. The assessee filed an appeal before the Ld. CIT(A), wherein it raised an alternate plea of deduction u/s. 10A. Since the Ld. CIT(A) affirmed the AO's findings, denied the alternate plea, the assessee filed an appeal before this tribunal, which by its order in the ITA No. 745/Mds/2014 dated 21.11.2014 set aside the issue back to the AO for adjudication afresh, as per law, after affording adequate opportunity to the assessee. In the consequential order passed dated 21.03.2016 also, the AO refused to allow the assessee's claim, which was confirmed by the Ld. CIT(A). Aggrieved against that order, the assessee filed this appeal.

3. The AR pleaded, inter alia, that the Ld. CIT(A) failed to appreciate that the assessee had substantiated all the conditions to claim the deduction u/s. 10A, he erred in concluding that the report of the Chartered Accountant in Form 56F is void, ab-initio and cannot be considered as a valid report as the same was not filed along with the return of income u/s. 139(1). Thus, the Ld. CIT (A) failed to follow the directions of the Hon'ble ITAT. Per contra, the Ld . DR supported the orders of the lower authorities.

4. We heard the rival submissions and perused the relevant material. From sub-sections (1) & (3) of section 10A, it is limpid that an assessee is eligible for a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of 10 consequent assessment years beginning with the assessment year relevant to the previous year in which the undertaking begins to manufacture or produces such articles or things or computer software, as the case may be, from its total income. From them, it is pellucid that unless otherwise, the assessee manufactures or produces such articles or things or computer software, is owner of them and sells (exports) them and receives convertible foreign exchange within the specified period, it may not be entitled to claim the deduction u/s. 10A. The assessee is relying on Form No. 56F dated 20.02.2013 for claiming the deduction u/s. 10A. We have gone through the copy of the Annexure-A of Form 56F furnished before us, in which under column No. 5, the nature of the business of the undertaking is mentioned as "Journal Typesetting, editing, Data Entry, Pagination, Medical Transcription etc" and the contents under column no. 14 is extracted as under:

"14. Export turnover of the undertaking in respect of in convertible foreign exchange of the undertaking in respect of

(a) services	Rs. 183,957,253/-
(b) computer software	Not applicable"

5. From the above, it appears that whether the assessee derived its profits and gains from the sale of articles or things or computer software, which is/ are manufactured or produced and owned by it ? or whether it derived its profits and gains from rendering services etc ? have not been examined. In the facts and circumstances, the issue, i.e., whether the assessee is eligible for the claim of deduction u/s. 10A or not ? is required to be examined, and hence this issue is remitted back to the AO for due examination, afresh. The assessee shall place all the materials on which it relies on, in support of its claim, and comply to the AO's requirements as per law. The AO is free to conduct appropriate enquiry, as deemed fit, but he shall furnish adequate opportunity to the assessee on the material etc to be used against it and shall determine whether the assessee is eligible to claim the deduction u/s. 10A or not in accordance with law. If it is found that the assessee is eligible to claim the deduction u/s 10A, then, the AO shall allow the deduction to the extent the sale proceeds of such articles or things or computer software exported out of India are received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf. Thus, the assessee's appeal is treated as allowed to the above extent.

6. In the result, the assessee's appeal is treated as partly allowed.

Order pronounced on Wednesday, the 19th day of September, 2018 at

Chennai.

Sd/-

(एन.आर.एस .गणेशन)

(N.R.S. GANESAN)

न्यायिकसदस्य/Judicial Member

Sd/-

(एसजयरामन)

(S. JAYARAMAN)

लेखासदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated: 19th September , 2018

JPV

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent
4. आयकरआयुक्त/CIT 5. विभागीयप्रतिनिधि/DR

3. आयकरआयुक्त अपील(/CIT(A)
6. गार्डफाईल/GF