

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “C” BENCH

**(BEFORE SHRI MAHAVIR PRASAD, JUDICIAL MEMBER
& SHRI WASEEM AHMED, ACCOUNTANT MEMBER)**

**ITA. No: 3398/AHD/2014
(Assessment Year: 2006-07)**

Dy. Commissioner of Income Tax, Circle-2(1)(2), Ahmedabad	V/S	Mastek Ltd. 804/805 President House, Opp. C.N. Vidyalaya, Ambawadi, Ahmedabad
(Appellant)		(Respondent)

PAN: AAACM9908Q

**Appellant by : Shri Lalit P Jain, Sr. D.R.
Respondent by : Shri S. N. Soparkar, A.R.**

(आदेश)/ORDER

Date of hearing : 28 -11-2018

Date of Pronouncement : 11 -01-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal by the Revenue is directed against the order of the Ld. CIT(A)-VIII, Ahmedabad dated 19.09.2014 pertaining to A.Y. 2006-07 and following grounds have been taken:

- 1. The Ld. CIT (A) has erred in law and on facts in deleting the disallowance of deduction u/s 10A of the Act amounting to Rs.1,03,82,636/- made by AO on account of the income earned as foreign exchange fluctuation gain which is not profit derived from export business.*
- 2. The Ld. CIT (A) has erred in law and on facts in directing the AO to compute the income/loss of each eligible unit after allowing the deduction u/s 10A, which is against the clarification issued by CBDT Circular No. 7/2013 dated 16-07-2013.*
- 3. On the facts and in the circumstances of the case, the Ld. CIT (A) ought to have upheld the order of the Assessing Officer.*
- 4. It is, therefore, prayed that the order of the Ld. CIT (A) may be set aside and that of the Assessing Officer may be restored to the above extent.*

2. In this case, assessee company is engaged in the export of the software development, upgradation and migration.
3. During the course of assessment proceedings, it was noticed that the assessee in the P&L account has credited 'other income' apart from 'sales income' has credited other income of Rs. 1,03,82,636/- and the said other income included income on account of foreign exchange gain apart from some other income. It was further observed that while computing the deduction u/s. 10A of the Act, the assessee had reduced from eligible profit, 'other income' except income credited on account of gain on foreign exchange gain in respect of Mahape Unit of Rs. 1,03,82,636/-. Therefore, ld. A.O. held the deduction u/s. 10A of the Act on other income including income on account of gain on foreign exchange is not allowable and accordingly computed the eligible deduction u/s. 10A.

4. Against the said addition, assessee preferred first statutory appeal before the ld. CIT(A) who granted relief to the assessee.
5. Now, revenue has come before us.
6. We have gone through the relevant record and impugned. After hearing both the sides, we have come to the conclusion that issue stood decided in favour of the assessee by the order of Co-ordinate Bench in ITA No. 2762/Ahd/2003 and ITA No. 09/Ahd/2004. In that matter, it was held that as regard on income of exchange rate fluctuation, the Hon'ble Gujarat High Court in the case of CIT vs. Amba Impex (supra), it is held that merely because an amount was received in the year subsequent to the year of export by way of exchange rate difference, it does not necessarily always follow that the same was not relatable to the exports made.
7. In the case of Pr. CIT Vs. Asahi Songwon Colours Ltd., Hon'ble Gujarat High Court has decided matter in favour of assessee that the exact remittance in connection with such export would depend on the precise exchange rate at the time when amount is remitted. The receipt would be on account of export made and therefore, the fluctuation thereof must also be said to arise out of export business. The assessee has given sufficient details to prove that foreign exchange fluctuations shown by it in books of accounts are arising due to export made by it. It has also submitted paper-wise working of the fluctuation and same are clearly relatable to the export made by it. Because issue is common, whatever have been decided by the Hon'ble Gujarat High Court.

8. Thus, respectfully following the aforesaid Jurisdictional High Court order, we are of the considered opinion that this case does not require any kind of interference at our end as ld. CIT(A) has passed reasoned order.
9. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in Open Court on 11 - 01- 2019

Sd/-

(WASEEM AHMED)
ACCOUNTANT MEMBER True Copy
Ahmedabad: Dated 11 /01/2019

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad