

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI JASON P BOAZ, ACCOUNTANT MEMBER**

ITA No.2691/Bang/2017
Assessment year : 2014-15

M/s. Infocon International Ltd., 1985, SS Complex, 9 <sup>th</sup> Main, 26 <sup>th</sup> Cross, Banashankari II Stage, Bangalore – 560 070. <b>PAN : AAACI 3319 P</b>	Vs.	Assistant Commissioner of Income Tax, Circle – 3(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sandeep C, CA
Revenue by	:	Dr. P. V. Pradeep Kumar, Addl. CIT

Date of hearing	:	29.04.2019
Date of Pronouncement	:	30.04.2019

**ORDER**

***Per Shri Jason P Boaz, A.M. :***

This appeal by the assessee is directed against the order of CIT(A)-3, Bangalore, dated 12.10.2017 for Assessment Year 2014-15.

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

2.1 The assessee, a company engaged in the business of trading in computer and accessories and rendering services related to computer software, filed its return of income for Assessment Year 2014-15 on 16.09.2015 declaring income of

Rs.6,34,88,610/-. The case was subsequently taken up for scrutiny for this Assessment Year and the assessment was concluded under section 143(3) of the Income Tax Act, 1961 (in short 'the Act') vide order dated 21.12.2016 wherein the assessee's income was determined at Rs.6,34,88,610/-. The assessee's appeal was dismissed by CIT(A)-3, Bangalore vide order dated 12.10.2017.

3. Aggrieved by the order of CIT(A)-7, Bangalore, dated 21.12.2016 for Assessment Year 2014-15, the assessee has preferred this appeal before the Tribunal, wherein it has raised the following grounds:

1. *The Order of the learned Commissioner of Income Tax (Appeals) in so far is prejudicial to the Interest of the appellant is bad and erroneous in law and against the facts and circumstances of the case.*
2. *That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in holding that the issue of MAT credit is debatable one and cannot be rectified by invoking provisions of section 154 of the Act.*
3. *That the learned Commissioner of Income Tax (Appeals) erred in law and on facts in not adducing any reason whatsoever for not considering the MAT Credit of Rs.72,64,964 (Inclusive of Surcharge and Cess).*
4. *That the learned Commissioner of Income Tax (Appeals) ought to have set off the MAT Credit at Rs. 72,64,964.*
5. *That the learned Commissioner of Income Tax (Appeals) ought to have considered the MAT Credit inclusive of Surcharge and Cess.*

*Each of the above grounds is without prejudice to one another and the appellant craves leave of the Hon'ble Income Tax Appellate Tribunal, Bangalore, to add, delete, amend, or modify one or more of the above grounds either before or at the time of hearing.*

4. At the outset of the hearing, the learned AR of the assessee submitted letter dated 27.04.2019 addressed to the Tribunal seeking withdrawal of the assessee's appeal for Assessment Year 2014-15; which reads as under:

Dear Sir,

Sub: Withdrawal of Appeal in the case of M/s. Infocon International Limited, Bangalore. AY 2014-15 – reg

Appeal No: ITA No. 2691/Bang/17

1. The appellant M/s Infocon International Limited is assessed to Income Tax by the learned Assistant Commissioner of Income Tax, Circle 3(1)(1), Bangalore. For the Assessment Year 2014-15, the appellant filed the Return of Income declaring the Total Income at Rs. 6,34,88,610 and had sought for refund of tax of Rs. 21,36,479. In the Return of Income, the appellant had claimed set off of MAT Credit under section 115JAA of the Act. The claim under section 115JAA of the Act is as under:

Particulars	Under Normal Computation (In Rs.)	Under MAT Computation (In Rs.)	Difference (In Rs.)
Tax	1,90,46,583	1,23,29,094	67,17,489
Surcharge	9,52,329	6,16,455	3,35,874
Cess	5,99,967	3,88,366	2,11,601
Total	2,05,98,879	1,33,33,915	72,64,964

2. The appellant's Return of Income for the year ending 31.03.2014 was selected for scrutiny and Order under section 143(3) of the Income Tax Act, 1961 (Act) was passed wherein the

Total Income was determined at Rs. 6,34,88,610 and the balance tax payable was determined at Rs. 54,166.

3. The appellant filed an application seeking rectification under section 154 of the Income Tax Act, 1961 (Act) for the following:

1. Error in calculation of tax.

2. To consider the credit under section 115JAA at Rs. 72,64,964 (inclusive of Surcharge and Cess) instead of Rs. 67,17,489 (Exclusive of Surcharge and Cess).

The learned assessing officer passed an order under section 154 of the Act wherein the mistake in the Tax calculation was rectified and the balance tax payable was determined at Rs. Nil. The learned assessing officer while passing the order under section 154 did not consider the MAT Credit at Rs. 72,64,964 (inclusive of Surcharge and Cess) but consider the MAT Credit at Rs. 67,17,489. In the order passed under section 154 of the Act, the learned assessing officer has not adduced any reason whatsoever as to why the MAT credit has not been considered at Rs. 72,64,964 (inclusive of Surcharge and Cess).

4. Aggrieved by the above order u/s. 154 of the learned Assessing Officer, the appellant filed appeal before the learned Commissioner of Income Tax (Appeals) – 3, Bangalore. However, the learned Commissioner held that the assessing officer has consciously determined the MAT credit in the assessment order u/s. 143(3) of the Act and not accepted the claim of the appellant in the return of income.

5. Aggrieved by the above order u/s 250 passed against the order u/s 154, the appellant filed an appeal u/s 143(3) before the learned Commissioner of Income Tax (Appeals) – 3, Bangalore. The learned Commissioner of Income Tax (Appeals) – 3 has allowed the appeal and therefore MAT Credit of Rs. 72,64,964 will be allowed.

6. The appellant had also filed an appeal against the order u/s 154 r.w.s 250 before the Hon'ble Income Tax Appellate Tribunal. The subject matter of the appeal was similar to that which was pending before the learned Commissioner of Income Tax (Appeals) – 3 as against the order u/s 143(3). The learned Commissioner of Income Tax (Appeals) – 3 has already allowed the appeal in relation to that matter and therefore the appellant wants to withdraw the appeal filed before the Hon'ble Income Tax Appellate Tribunal.

Kindly acknowledge.

Thanking you,

Yours faithfully,

For MSSV & Co.,  
Chartered Accountants



Sandeep Chalapathy

Manager – Taxation  
Authorised Representative

5. In view of the above letter (supra), withdrawing the assessee's appeal for Assessment Year 2014-15, the grounds raised are rendered infructuous and the assessee's appeal is accordingly dismissed as withdrawn.

6. In the result, the assessee's appeal for Assessment Year 2014-15 is dismissed.

*Order pronounced in the open court on this 30<sup>th</sup> day of April, 2019.*

Sd/-  
**(N. V. VASUDEVAN)**  
**Vice President**

Sd/-  
**(JASON P BOAZ)**  
**Accountant Member**

Bangalore.

Dated: 30<sup>th</sup> April, 2019.

/NS/\*

Copy to:

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.