

**आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH, CHENNAI**  
**श्री जॉर्ज माथन, न्यायिक सदस्य एवं श्री एस जयरामन, लेखा सदस्य के समक्ष**  
**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.711/CHNY/2016

(निर्धारण वर्ष / Assessment Year: 2006-07)

M/s. RR Donnelley India Outsource Pvt. Ltd., 43A, 1 <sup>st</sup> Main Road, R.A. Puram, Chennai – 600 028.	Vs	The Deputy Commissioner of Income Tax, Company Circle – V(4), Chennai – 34.
PAN: AABCH1990A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

&

आयकर अपील सं./I.T.A.Nos.244 & 245/CHNY/2018

(निर्धारण वर्ष / Assessment Years: 2006-07 & 2010-11)

M/s. RR Donnelley India Outsource Pvt. Ltd., 43A, 1 <sup>st</sup> Main Road, R.A. Puram, Chennai – 600 028.	Vs	The Deputy Commissioner of Income Tax, Corporate Circle – 5(2), Chennai – 34.
PAN: AABCH1990A		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri R. Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing	:	11.06.2019
घोषणा की तारीख /Date of Pronouncement	:	26.07.2019

**आदेश / O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed these appeals against the order of the Commissioner of Income Tax (Appeals)-3, Chennai in ITA No.237 &

273/16-17/A-3 dated 27.10.2017 for the assessment year 2006-07 & 2010-11, respectively, and in ITA No.65/CIT(A)-3/2014-15 dated 28.01.2016 for the assessment year 2006-07.

2. M/s. RR Donnelley India Outsource Pvt. Ltd., the assessee, is engaged in the business of providing IT enabled services, business process outsourcing and related activities. The Ld.AR submitted that these appeals are filed against the denial of deduction U/s.10A of the Income Tax Act,1961. In the assessment made for the assessment year 2006-07, the assessee, inter-alia, claimed deduction U/s.10B which was allowed. Subsequently, the Assessing Officer reopened the assessment and withdrew the deduction U/s.10B as the assessee has not obtained approval from the Board. The assessee filed an appeal before this Tribunal in ITA No.711/Chny/2016 and this Tribunal in its order dated 01.08.2016 remitted the matter back to the file of Assessing Officer for considering the alternate claim of the assessee for granting the benefit of section 10A of the Act, if the assessee is found to be eligible for such claim U/s.10A. In the consequential order passed U/s.143(3) r.w.s. 147 r.w.s 254, the Assessing Officer rejected the assessee's claim U/s.10A for the reason, that the assessee claimed the deduction U/s.10B in its return

and not U/s.10A. On appeal, the CIT(A) upheld such disallowance, in disobedience of direction of this Tribunal admitting the alternate claim of the appellate in ITA No.711/Chny/2016, although the assessee filed Form 56F along with the return. For the assessment year 2010-11, the assessee claimed deduction U/s.10B which was denied. Aggrieved against that order, the assessee filed appeal before this Tribunal in ITA No.678/Mds/2015 and this Tribunal remitted the issue back to the file of the TPO/Assessing Officer to consider the allowability of deduction U/s.10A. While giving effect to the order, the Assessing Officer denied the deduction. The CIT(A) upheld the Assessing Officer's decision holding that the deduction U/s.10A was not claimed in the return and the assessee has not filed the Form No.56F along with its original return, in disobedience of direction of this Tribunal admitting the alternate claim in ITA No.678/Mds/2015, *supra*. Therefore, the Ld.AR pleaded to allow these appeals. Per contra, the Ld.DR supported the orders of the lower authorities.

3. We heard the rival submissions and gone through the relevant material. We find that the lower authorities have not appreciated the assessee's claim U/s.10A for the reason that such claim was not made in the original return and the Form No.56F and its enclosures

were not filed with original return of income. We find that the decisions arrived by the lower authorities are not correct. When the ITAT remitted the issues back to the file of the Assessing Officer applying the ratio of Goetze (India) Ltd., vs. CIT, 284 ITR 323 (SC), to decide the assessee's alternate claim, the Assessing Officer cannot reject such claim merely for the reason that such claim was not made in the original return and the required Form No.56F was not filed along with original return, because the entertaining of the alternate claim was in accordance with the decision of Appellate Tribunal. Therefore, the claim made subsequently U/s.10A along with Form No.56F has to be treated as if they were made along with the original return subject to fulfillment of other conditions laid U/s.10A of the Act. In view of the facts and circumstances, we deem it fit to remit the claim of deduction U/s.10A to the Assessing Officer for a fresh examination. The Assessing Officer shall treat that the assessee's claim of deduction U/s.10A was made in the original return and the Form No.56F already filed are valid forms and then examine whether the assessee's claim of deduction U/s.10A are in accordance with the remaining conditions of provisions of law and after affording due opportunity to the assessee shall pass a speaking order for assessment years 2006-07 & 2010-11 respectively. Therefore, the

assessee's appeals in ITA No. 244 & 245 of 2018 are treated as allowed for statistical purposes.

4. Since the substantial issue in respect of claim of deduction U/s.10A for the assessment year 2006-07 is already remitted back, the appeal filed in ITA No.711 of 2016 for the assessment year 2006-07 is treated as infructuous. Hence dismissed.

5. In the result, the appeal of the assessee in ITA No.711/Chny/2016 is dismissed and in ITA Nos.244 & 245/Chny/2018 are treated as allowed for statistical purposes.

Order pronounced in the court on the 26<sup>th</sup> July, 2019 at Chennai.

Sd/-

( जॉर्ज माथन )

(George Mathan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated 26<sup>th</sup> July, 2019

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त (अपील)/CIT(A)

4. आयकर आयुक्त/CIT

5. विभागीय प्रतिनिधि/DR

6. गार्ड फाईल/GF

Sd/-

( एस जयरामन )

(S. Jayaraman)

लेखा सदस्य /Accountant Member