

IN THE INCOME TAX APPELLATE TRIBUNAL

“A” BENCH : BANGALORE

BEFORE SHRI N.V. VASUDEVAN, VICE-PRESIDENT AND
SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER

IT(TP)A No. 871/Bang/2013

Assessment Year : 2005-06

The Assistant Commissioner of Income- tax, Circle 11 (4), Bangalore.	Vs.	M/s. IBA Health India Pvt. Ltd. (Now M/s. ISoft Health Management India Pvt. Ltd.), Hafiz Court, No. 19, Kodambakkam High Road, Nungambakkam, Chennai – 600 034. PAN: AAACO2465N
APPELLANT		RESPONDENT
Assessee by	:	None
Revenue by	:	Shri S.T. Seshadri, JCIT (DR)
Date of hearing	:	28.08.2019
Date of Pronouncement	:	06.09.2019

ORDER

Per Shri A.K. Garodia, Accountant Member

This appeal is filed by the revenue and the same is directed against the order of Id. CIT(A)-IV, Bangalore dated 11.03.2013 for Assessment Year 2005-06.

2. The grounds raised by the revenue are as under.

“1. The order of the Learned CIT (Appeals), in so far as it is prejudicial to the interest of revenue, is opposed to law and the facts and circumstances of the case.

2. The CIT(A) was not justified in deleting the disallowance made in respect of Product Development Expenditure of Rs.88,58,638/-

3. The CIT(A) ought to have appreciated that the expenses are capital in nature as the assessee company has developed intangible assets from which it derives revenue by lincensing of such intangible assets.

4. The CIT(A) was not justified in deleting the disallowance made in respect of expenditure on software purchase amounting to Rs.94,143/-

5. The CIT(A) ought to have appreciated that the expenses related to purchase of software which would be used for the development of its healthcare product. Hence the assessee derives enduring benefits from such software.

6. In the facts and circumstance of the case, the learned CIT(A) erred in holding that USD LIBOR is the correct rate to be adopted for evaluating the arm's length rate of international financial transaction

between taxpayer and its AE.

7. The learned CIT(A) erred in holding that the TPO erred in applying the Indian Corporation Bond Rates for calculating of interest that should have been received by the taxpayer.

8. For these and such other grounds that may be urged at the time of hearing, it is humbly prayed that the order of the CIT(A) be reversed and that of the Assessing Officer be restored.

9. The appellate craves leave to add, to alter, to amend or delete any of the grounds that may be urged at the time of hearing of the appeal.”

3. None appeared on behalf of the assessee and since it was seen by the bench that the tax effect is bound to be below Rs. 50 Lakhs and therefore, the appeal of the revenue is not maintainable. The appeal of revenue was heard ex-parte qua the assessee. It was pointed out by the bench to the Id. DR of revenue regarding the low tax effect. He submitted that as per ground no. 2 raised by the revenue, the issue in dispute is regarding the deletion of disallowance made by the AO of Rs. 88,58,638/-. As per ground no. 4, the issue in dispute is regarding deletion of disallowance of Rs. 94,143/-. He submitted that as per ground no. 6, the dispute is regarding deletion of interest disallowance and in this regard, he drawn our attention to para no. 9 of the assessment order and pointed out that this addition was of Rs. 58,20,540/- and in this manner, total disallowance deleted by CIT(A) for which revenue is in appeal is of Rs. 1,47,73,321/-. The bench pointed out that total tax effect of deletion of disallowance at 30% comes to Rs. 44,31,996/- which is below Rs. 50 Lakhs and hence, the appeal of the revenue is not maintainable because of low tax effect. In reply, the Id. DR of revenue had nothing to say and hence, we hold that the appeal of the revenue is not maintainable because of low tax effect and this appeal is dismissed accordingly.

4. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on the date mentioned on the caption page.

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

Sd/-
(ARUN KUMAR GARODIA)
Accountant Member

Bangalore,
Dated, the 06th September, 2019.
/MS/

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| 1. Appellant | 4. CIT(A) |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT | 6. Guard file |

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Bangalore.