

IN THE INCOME TAX APPELLATE TRIBUNAL

“C” BENCH : BANGALORE

BEFORE SHRI ARUN KUMAR GARODIA, ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER

ITA No. 1510/Bang/2018
Assessment Year : 2013-14

The Deputy Commissioner of Income Tax, Circle 5 (1) (2), Bangalore.	Vs.	M/s. Ocwen Financial Solutions Pvt. Ltd., Printech Park, Survey No. 51 to 64/4, Block No. 12, 5 <sup>th</sup> Floor B Wing, 6 <sup>th</sup> Floor, A Wing, Bellandur Village, Sarjapur, Bangalore – 560 103. <b>PAN: AAACO3764E</b>
APPELLANT		RESPONDENT

Assessee by	:	Smt. Vidya Kurup, CA
Revenue by	:	Smt. R. Premi, JCIT (DR)

Date of hearing	:	18.09.2019
Date of Pronouncement	:	08.11.2019

**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)-5, Bangalore dated 01.02.2018 for Assessment Year 2013-14.

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

*“(a) The order of the learned CIT(A) is opposed to law and facts of the case.*

*(b) Whether on the facts and in the circumstances of the case, the learned CIT(A) was justified in deleting the disallowance made in respect of Assessee's claim of exemption made U/s 10AA of the I.T. Act, 1961 on account of gain on fluctuation of foreign exchange, without appreciating the fact that the Apex Court has considered the legislative intent behind the use of the word "derived from" in the section 10AA in the case of Liberty India and Others Vs CIT and reaffirmed that these words are narrower in connotation as compared to the words "attributable to" in which the Hon'hle further held that by using the*

*expression "derived from", the Parliament intended to cover sources not beyond the first degree?*

*(c) Whether on the facts and in the circumstances of the case, the learned CIT(A) was justified in directing the Assessing Officer to reduce the expenditure incurred in foreign currency, both from Export Turnover as well as Total Turnover for the purpose of computation of deduction u/s 10AA, without appreciating that the statute allows exclusion of such expenditure only from the Export Turnover by way of specific definition as envisaged by sub-clause (4) of Explanation 2 below Sub-section 8 of Section 10A. On the other hand, there is no specific provision in Section 10A warranting exclusion of the above expenses from the Total Turnover also?*

*(d) For these and other grounds that may be urged upon at the time of hearing, it is prayed that the order of CIT(A) in so far as it relates to the above grounds, may be reversed and that of the Assessing Officer may be restored.*

*(e) The appellant craves leave to alter, amend or delete any of the grounds mentioned above and / or add any new grounds on or before the hearing."*

3. The Id. DR of revenue supported the assessment order whereas the Id. AR of assessee although supported the order of Id. CIT(A), but this was her submission that this appeal of revenue is not maintainable because of low tax effect. She pointed out that as per grounds raised by the revenue in this appeal, the only issue raised in this appeal by revenue is regarding direction of Id. CIT(A) to the AO to reduce the expenditure incurred in foreign currency both from export turnover as well as total turnover for the purpose of computation of deduction allowable to assessee u/s. 10AA of the IT Act. Thereafter she pointed out that as per page no. 4 of the assessment order, the AO has computed the deduction allowable to the assessee u/s. 10AA of the IT Act at Rs. 13,20,72,930/- as against the assessee's claim for such deduction at Rs. 14,43,51,891/- and in this manner, he has reduced the amount of deduction allowable to the assessee u/s. 10AA of the IT Act by Rs. 1,22,78,961/-. She submitted that even if the entire disallowance of assessee's claim for deduction u/s. 10AA of the IT Act is deleted by Id. CIT(A), the tax effect of such relief allowed by Id. CIT(A) is bound to be below Rs. 50 Lakhs and therefore, as per the recent CBDT instructions, this appeal of revenue is not maintainable because of low tax effect. In reply, the Id. DR of revenue could not show that

the tax effect in the present case is not below Rs. 50 Lakhs and in this view of the matter, we hold that this appeal of revenue is not maintainable because of low tax effect and dismiss the same 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/-  
(PAVAN KUMAR GADALE)  
Judicial Member

Sd/-  
(ARUN KUMAR GARODIA)  
Accountant Member

Bangalore,  
Dated, the 08<sup>th</sup> November, 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.