

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH : BANGALORE**

**BEFORE SHRI B.R BASKARAN, ACCOUNTANT MEMBER AND  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

ITA No.113/Bang/2019

Assessment year : 2009-10

The Dy. Commissioner of Income-tax, Circle-7(1)(1), Bengaluru.	Vs.	M/s Textron India Pvt. Ltd., Floor-2, Block-B, Tower-2, SEZ Campus, Global Village, RVCE Post, Mylasandra, Off Mysore Road, Bengaluru-560 059.  PAN – AACCT 0118 M
APPELLANT		RESPONDENT

CO No.53/Bang/2019

Assessment year : 2009-10

M/s Textron India Pvt. Ltd., Floor-2, Block-B, Tower-2, SEZ Campus, Global Village, RVCE Post, Mylasandra, Off Mysore Road, Bengaluru-560 059.  PAN – AACCT 0118 M	Vs.	The Dy. Commissioner of Income-tax, Circle-7(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri A.K Prasad, Advocate
Respondent by	:	Shri M Vijay Kumar, Addl. CIT

Date of hearing	:	07.11.2019
Date of Pronouncement	:	27.11.2019

**ORDER**

**PER BENCH :-**

The appeal filed by the revenue and the cross objection filed by the assessee are directed against the order dated 07-11-2018 passed by Ld CIT(A)-7, Bengaluru and they relate to the assessment year 2009-10.

2. The revenue is aggrieved by the decision of Ld CIT(A) in directing exclusion of three comparable companies under Software Development activities. The assessee is supporting the order passed by Ld CIT(A) in the Cross objection filed by it.

3. At the time of hearing, the Ld A.R submitted that the tax effect involved in the appeal filed by the revenue is less than Rs.50.00 lakhs, being the new monetary limit prescribed by CBDT in Circular No.17/2019 dated 08-08-2019, which has also been clarified as having retrospective effect by CBDT.

4. Explaining further, the Ld A.R submitted that the assessee had entered into international transactions with its Associated Enterprises (AEs) and for the purpose of bench marking, they were classified into two categories, viz., "US related" and "Non-US related". The assessee had settled the "US related" transactions under MAP proceedings and hence the transfer pricing adjustment made in respect of "US related" transactions was withdrawn by the assessee before Ld CIT(A). Accordingly, the Ld CIT(A) has passed the order in respect of "Non-US related" transactions only. The TP

adjustment made by the TPO in respect of non-us related transaction was Rs.48.89 lakhs only. After the order passed by Ld CIT(A), the variation comes to Rs.29.06 lakhs only. Accordingly, the Ld A.R submitted that the tax effect involved in the relief granted by Ld CIT(A), on which the revenue is in appeal, would be less than Rs.50.00 lakhs. Accordingly he submitted that the revenue is precluded for pursuing this appeal.

5. The Ld D.R submitted that the tax effect involved in this appeal needs to be checked by the AO. Accordingly the bench granted two weeks time to furnish the details of tax effect. However, till date no reply has been received from the revenue.

6. From the submissions made by Ld A.R, we notice that the tax effect involved in the issues contested by the revenue appears to be less than Rs.50.00 lakhs and hence, as per the CBDT circular referred supra, the revenue is precluded from pursuing this appeal. Accordingly we dismiss the appeal of the revenue in limine. However, liberty is given to the revenue to move appropriate application for recall of this order in accordance with law, if it is found later that the above said Circular is not applicable to this appeal.

7. Since we have dismissed the appeal of the revenue and the cross objection filed by the assessee only supports the order of Ld CIT(A), we dismiss the Cross objection filed by the assessee also.

8. In the result, the appeal of the revenue and the cross objection filed by the assessee are dismissed.

Order pronounced in the Open Court on **27<sup>th</sup> November, 2019.**

**Sd/-**  
**(Pavan Kumar Gadale)**  
**Judicial Member**

**Sd/-**  
**(B.R Baskaran)**  
**Accountant Member**

Bangalore,  
Dated, 27<sup>th</sup> November, 2019.

/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.

1. Date of Dictation .....
2. Date on which the typed draft is placed  
before the dictating Member .....
3. Date on which the approved draft comes to Sr.P.S  
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before the dictating Member .....
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P.S. ....
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Dictation note enclosed
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