

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

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA No. 2300/Bang/2019</b>
<b>Assessment years : 2009 – 10</b>

M/s EYGBS (India) LLP, (Earlier Known as EYGBS (India) Pvt. Ltd. And successor to EYME Technologies Pvt. Ltd.), RMZ Infinity, Tower C, 3 <sup>rd</sup> Floor, Old Madras Road, K. R. Puram, Bengaluru – 560 016. <b>PAN : AAHFE0349K</b>	V s.	DIT (Intelligence and Criminal Investigation), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>
Assessee by	:	Shri Rajan Vora, C. A.
Revenue by	:	Shri. Manjeet Singh, Addl. CIT DR
Date of hearing	:	15.10.2020
Date of Pronouncement	:	19.10.2020

**ORDER**

***PER ARUN KUMAR GARODIA, A. M.:***

This appeal is filed by the assessee and the same is directed against an order of learned CIT(A) – 2 Bengaluru dated 30.08.2019.

2. In this appeal, although various grounds are raised by the assessee but there is only one grievance and it is about disallowance of the claim of the assessee for deduction u/s 10A made by the assessee as per revised return of income filed for the present year in respect of income of Rs. 5,42,11,607/- accounted for by the assessee as prior period income in F.

Y. 2009 – 10 relevant to A. Y. 2010 – 11 and it is contended in Ground No. 2.2 that this income was offered to tax in the present year in the Revised Return of Income as Voluntary T P Adjustment and it was reduced from the total prior period income of Rs. 11,31,27,949/- in A. Y. 2010 – 11.

3. In course of hearing, various arguments were raised by the learned AR of the assessee and it was pointed out that on page 55 of the paper book is the revised computation of income filed with revised return of income filed for the present year and it was submitted that this amount was added to the income as “Adjustment on account of Transfer Pricing”. Thereafter, he pointed out that on page 74 of the paper book is the relevant Schedule 8 for F. Y. 2009 – 10 where total Prior Period income of Rs. 11,31,27,479/- is reported for various years including this amount of Rs. 5,42,11,607/- for F. Y. 2008 – 09 relevant to the present assessment year 2009 – 10. At this juncture, the bench pointed out that in the same Schedule 8 for F. Y. 2009 – 10, there are Prior Period Expenses of Rs. 4,82,55,683/- also reported for those very years for which Period income of Rs. 11,31,27,479/- is reported and such Prior Period Expenses also include Rs.2,02,44,779/- and Rs. 42,19,802/- Total Rs. 2,44,64,581/- for F. Y. 2008 – 09 i.e. for the present assessment year 2009 – 10 and therefore, how the entire prior period income for this year reported at Rs. 5,42,11,607/- can be accepted as eligible for deduction u/s 10A. In reply, it was submitted by the learned AR of the assessee that these Prior Period Expenses are not related to this amount of Prior Period Income claimed in the present year as deduction u/s 10A of Rs. 5,42,11,607/-. The bench wanted to see the details of those prior

period expenses or the finding of lower authorities in this regard and in reply, it was submitted by the learned AR of the assessee that such detail is not readily available and no finding is given by AO or by CIT (A) in this regard. He submitted that the order of TPO for the same year is available on pages 24 to 26 of the Appeal Memo and he pointed out that on page 3 of this order available on page 26 of the Appeal Memo, the TPO has noted that the assessee has made a voluntary T P Adjustment of Rs. 5,42,11,607/- and as a result, the profit margin has increased and no T P adjustment is called for. He submitted that it is accepted by the TPO also that the assessee has made a voluntary T P Adjustment of Rs. 5,42,11,607/- He placed reliance on the tribunal order rendered in its own case for A. Y. 2010 – 11 in ITA No. 199 & 218/B/2015 dated 20.05.2020 copy on pages 128 to 146 of the paper book and pointed out that in para 19 of this tribunal order, the tribunal has reproduced relevant paras of another tribunal order rendered in the case of Apoorva Systems Pvt. Ltd. (Supra) and on page 146 of the paper book, it is held that the assessee is eligible for deduction u/s 10AA in respect of Voluntary T P Adjustment made by the assessee. As against this, learned DR of the revenue supported the order of CIT (A).

4. We have considered the rival submissions. In our considered opinion, in principle, the deduction u/s 10A is allowable because this is offered by the assessee itself as Voluntary T P Adjustment and therefore, this issue in principle is covered in favour of the assessee by the tribunal order cited by the learned AR of the assessee as noted above. But on this factual aspect about Prior Period Expenses for F. Y. 2008 – 09 reported by the assessee in Schedule 8 of the Audited Accounts for F. Y. 2009 –

10 of Rs.2,02,44,779/- and Rs. 42,19,802/- Total Rs. 2,44,64,581/-, this is not clear as to whether these expenses or any part of these expenses is related to Prior Period income of Rs. 5,42,11,607/- reported in same Schedule 8 of the Audited Accounts for F. Y. 2009 – 10 because if the same is related then the actual income on this account will be less and then only actual such income can be considered for deduction u/s 10A. On this aspect, neither any detail is made available before us nor there is any finding of AO or CIT (A). Hence, we restore this matter to AO for fresh decision after examining this factual aspect as to whether the Prior Period Expenses for F. Y. 2008 – 09 reported by the assessee in Schedule 8 of the Audited Accounts for F. Y. 2009 – 10 of Rs.2,02,44,779/- and Rs. 42,19,802/- Total Rs. 2,44,64,581/- is related to Prior Period income of Rs. 5,42,11,607/- reported in same Schedule 8 of the Audited Accounts for F. Y. 2009 – 10. If it is found that any part or full amount of these expenses are related to Prior Period income of Rs. 5,42,11,607/- reported in same Schedule 8 of the Audited Accounts for F. Y. 2009 – 10 then only such income which remains after deducting such related expenses should be considered as eligible for deduction u/s 10A and such expenses should be reduced from the expenses claimed and allowed in A. Y. 2010 – 11 because once such expenses are reduced from this income in the present year, the same cannot be allowed in A. Y. 2010 – 11 again and it is a consequential direction. . If it is found that no part of such expenses is related to Prior Period income of Rs. 5,42,11,607/- reported in same Schedule 8 of the Audited Accounts for F. Y. 2009 – 10 then entire amount of such prior period income of Rs. 5,42,11,607/- reported in same Schedule 8 of the Audited Accounts for

F. Y. 2009 – 10 should be considered as eligible for deduction u/s 10A in the present year and there is no consequential direction for A. Y. 2010 – 11 in such a situation. We make it clear, that the AO should provide adequate opportunity of being heard to the assessee to bring material on record regarding this factual aspect.

5. In the result, the appeal of the assessee is allowed for statistical purposes in the terms as above.

*Pronounced in the open court on the date mentioned on the caption page.*

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

**Sd/-**  
**(A.K. GARODIA)**  
**Accountant Member**

Bangalore,  
Dated: 19<sup>th</sup> October, 2020.

/NS/\*AKG

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

By order

Assistant Registrar,  
ITAT, Bangalore.