

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

**BEFORE SHRI B. R. BASKARAN, ACCOUNTANT MEMBER
AND
SMT. BEENA PILLAI, JUDICIAL MEMBER**

ITA No.613/Bang/2020
AssessmentYear: 2010-11

M/s. Eka Software Solutions Pvt. Ltd. Building 2A, East Tower, Embassy Tech Village, Outer Ring Road, Devarabeesanahalli, VarthurHobli Bangalore-560 037. PAN NO : AABCE3660Q	Vs.	ACIT Circle-2(1)(2) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri Ajay Rotti, A.R.
Respondent by	:	Smt. R. Premi, D.R.

Date of Hearing	:	15.10.2020
Date of Pronouncement	:	16.10.2020

O R D E R

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 28.2.2020 passed by Ld. CIT(A)-2, Bengaluru and it relates to the assessment year 2010-11. In this appeal, the assessee is contending that the Ld. CIT(A) has not adjudicated legal grounds relating to the validity of the assessment order passed beyond the limitation period and also in not adjudicating the ground relating to disallowance made u/s 40(a)(i) of the Income-tax Act,1961 [‘the Act’ for short].

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2. The Ld. Counsel appearing for the assessee submitted that the ground urged on merits relate to disallowance made by the A.O. u/s 40(a)(i) of the Act. He submitted that the Ld. CIT(A) did not adjudicate the contention of the assessee that no disallowance u/s 40(a)(i) of the Act is called for. The assessee had raised an alternative contention before Ld. CIT(A) that the disallowance made u/s 40(a)(i) of the Act would go to increase the amount of “profits of business” and hence, the deduction allowable u/s 10A of the Act would also increase corresponding to the amount of disallowance. The alternative contention of the assessee was accepted by the Ld. CIT(A) by following the decision rendered by the Tribunal in the assessee’s own case in ITA No.2114/Bang/2019 and accordingly, the Ld. CIT(A) has directed the A.O. to re-compute deduction u/s 10A of the Act. Accordingly, the Ld. A.R. submitted that, if the A.O. gives effect to the order passed by Ld. CIT(A), there will be no additional tax liability in the hands of the assessee. Since the A.O. has not yet given effect to the order of Ld. CIT(A), the assessee filed this appeal before Tribunal.

3. The Ld. A.R. submitted that the grounds urged in this appeal would become academic in nature if the A.O. give effect to the order of Ld. CIT(A) with regard to the re-computation of deduction u/s 10A of the Act. Accordingly, without prejudice to the right of the assessee to seek recall of the order for adjudication of the grounds urged in the present appeal, the Ld A.R submitted that the Tribunal may dispose of the appeal by directing the AO to give effect to the directions given by Ld CIT(A) with regard to the re-computation of deduction u/s 10A of the Act

4. We heard Ld. D.R. and perused the record. We notice that the Ld. CIT(A) has already given direction to the A.O. to recompute the deduction u/s 10A of the Act consequent to disallowance made

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by him u/s 40(a)(i) of the Act. According to the assessee, there will not be any additional tax liability, if the above said direction is given effect to by the A.O. Under these set of facts, the grounds urged by the assessee before Tribunal would become academic in nature. We have also considered the prayer of the Ld. A.R. Accordingly, we direct the A.O. to give effect to the order of the Ld. CIT(A) as expeditiously as possible. Accordingly, we do not find it necessary to adjudicate the grounds urged by the assessee before us. The assessee may seek recall of the order, if found so necessary.

5. In the result, the appeal filed by the assessee is treated as dismissed.

Order pronounced in the open court on 16th Oct, 2020

Sd/-
(Beena Pillai)
Judicial Member

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

Bangalore,
Dated 16th Oct, 2020.
VG/SPS
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