

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

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT  
AND  
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1840/Bang/2018
Assessment Year: 2012-13

Deputy Commissioner of Income-tax Circle 6(1)(1) Bangalore	<b>Vs.</b>	M/s. SLK Global BPO Services Pvt. Ltd. 7 <sup>th</sup> & 8 <sup>th</sup> Floors, N-1 Block Manyatha Tech Park Nagavara Bangalore 560 045  <b>PAN NO :AABCC5793L</b>
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Kannan Narayanan, D.R.
<b>Respondent by</b>	:	Shri K.R. Vasudevan, A.R.

Date of Hearing	:	22.06.2021
Date of Pronouncement	:	23.06.2021

**ORDER**

**PERB.R. BASKARAN, ACCOUNTANT MEMBER:**

The revenue has filed this appeal challenging the order dated 16.1.2018 passed by Ld. CIT(A)-6, Bengaluru and it relates to the assessment year 2012-13. The solitary issue urged in this appeal relates to allowability of claim of “provision for estimated loss on derivatives”.

2. The facts relating to the case are stated in brief. The assessee is engaged in the business of export of data processing services and other incidental services. The A.O. noticed that the assessee has

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created a provision for estimated loss on derivatives to the tune of Rs.2,21,21,000/- and claimed the same as deduction. The A.O. took the view that the above said provision is a contingent liability and hence, it is not deductible. In this regard, he placed his reliance on the decision rendered by Hon'ble Supreme Court in the case of Indian Molasses Company Pvt. Ltd. Vs. CIT (1959) 37 ITR 66 and also the decision rendered by Hon'ble Karnataka High Court in the case of CIT Vs. Micro Line Ltd. The A.O. also placed reliance on the CBDT instruction no.3/2010 dated 23.3.2010, wherein the CBDT has expressed view that marked to market loans are contingent in nature. Accordingly, he disallowed the above said claim of Rs.2,21,21,000/-.

3. The Ld. CIT(A) noticed that an identical claim has been allowed in the hands of the assessee by Ld. CIT(A) for the assessment year 2008-09. Accordingly, following the order passed for assessment year 2008-09 by Ld. CIT(A), the Ld. CIT(A) allowed the claim in this year also. Aggrieved, the revenue has filed this appeal before us.

4. We heard the parties and perused the record. From the perusal of assessment order, we notice that the exact nature of claim has not been brought on record. Even in the paper book filed by the assessee, the details of loss i.e. whether it is related to hedging transactions or not; whether the corresponding underlying assets have been revalued or not, have not been spelt out. The Ld. D.R. also pointed out from page no.11 of the paper book that the assessee has revalued those derivatives, in which it has incurred loss and did not revalue the derivatives, in which the assessee has made gains. Thus, we notice that the facts relating to the claim have not been brought out correctly either by the assessee or by the tax authorities.

5. When a specific question was put as to whether the appellate order passed by Ld. CIT(A) for assessment year 2008-09 have been agitated before ITAT or not?, either of the parties could not furnish relevant details. It was submitted that the appeal might not have been filed on account of low tax effect.

6. Before us, the Ld. D.R. placed his reliance on the decision rendered by Delhi bench of Tribunal in the case of Bechtel India Pvt. Ltd. (2017) 165 ITD 282. The Ld. A.R. on the contrary placed his reliance on the decision rendered by coordinate Bangalore bench of Tribunal in the case of Quality Engineering & Software Technologies Pvt. Ltd. (2014) 52 Taxmann.com 515.

7. Since the relevant facts have not been examined, we are of the view that entire issue needs to be examined by the A.O. afresh by considering all the relevant details. Hence, we decline to comment upon the case laws relied upon by both parties. The assessee may advance all its arguments before the A.O., who may consider them and take appropriate decision in accordance with law.

8. In the result, the appeal filed by the revenue is treated as allowed for statistical purposes.

Order pronounced in the open court on 23<sup>rd</sup> June, 2021.

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

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

Bangalore,  
Dated 23<sup>rd</sup> June, 2021.  
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.