

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

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

IT(TP)A No.2848/Bang/2017
Assessment Year : 2013-14

M/s. Fidelity Business Services India Pvt. Ltd., Pinehurst, Embassy Golf Links Business Park, Off Intermediate Ring Road, Bangalore – 560 071. <b>PAN : AAACF 6175 E</b>	Vs.	The Deputy Commissioner of Income Tax, Circle – 3(1)(1), Bangalore.
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Assessee by	:	Shri. G. C. Srivastava, CA
Revenue by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru

Date of hearing	:	07.09.2021
Date of Pronouncement	:	08.09.2021

**ORDER**

***Per N.V. Vasudevan, Vice President***

This is an appeal by the assessee against the final Order of Assessment dated 25.10.2017 passed by the DCIT, Circle – 3(1)(1), Bengaluru, under section 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 (hereinafter called ‘the Act’), for Assessment Year 2013-14.

2. Ground No.1 raised by the assessee is general in nature and requires no specific adjudication. Ground Nos. 2 to 18 raised by the assessee are in relation to the addition made consequent to determination of Arm’s Length Price (ALP) in respect of international transaction of rendering of software development services by the assessee to its Associated Enterprise (AE) in terms of section 92 of the Act. At the time of hearing, learned Counsel for the assessee made a submission that the assessee’s AE based in USA had applied for resolution of

the dispute under the mutual agreement procedure (MAP) with the competent authorities of USA and Govt. of India. Consequent to the aforesaid request, the dispute has been resolved between the assessee and the Department. A copy of the letter of the CBDT dated 16.06.2021 is also filed before us. In the light of the resolution of disputes under MAP, the learned Counsel for the assessee prayed that grounds 2 to 18 may be dismissed as not pressed. Accordingly, these grounds are dismissed as not pressed.

3. There are 2 other corporate issues that are raised by the assessee in the grounds of appeal and these grounds reads as follows:

**Other than Transfer Pricing Related**

1. *That the Ld. AO erred in not allowing deduction under section 10AA of the Act on the entire profits of the undertaking amounting to INR 14,02,24,771.*
2. *That the Ld. AO has erred in reduction of freight, telecommunication and insurance charges attributable to the delivery of computer software outside India of INR 1,35,84,668 from the Export Turnover (ET) without corresponding reduction in Total turnover (TT) while computing deduction under section 10AA of the Act.*

4. Ground No.1 was not pressed by the learned Counsel for the assessee. As far ground No.2 is concerned, the issue that needs to be decided is as to whether the freight, telecommunication and insurance charges incurred by the assessee has to be excluded both from the export turnover and the total turnover while computing deduction under section 10AA of the Act. On this issue, the Hon'ble Karnataka High Court in the case of Tata Elxsi Ltd, 349 ITR 98 has already held that whatever is to be excluded from the export turnover has to be excluded from the total turnover also. This view has since been confirmed by the Hon'ble Supreme Court in the case of CIT v. HCL Technologies Ltd. in Civil Appeal No.8489-98490 of 2013 & Ors. dated 24.04.2018. In view of the above, we are

of the view that there is merit in ground No.2 raised by the assessee and accordingly the same is allowed.

5. In the result appeal by the assessee is partly allowed.

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

Sd/-  
**(B. R. BASKARAN)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(N. V. VASUDEVAN)**  
**VICE PRESIDENT**

Bangalore,  
Dated : 08.09.2021.  
/NS/\*

Copy to:

1. Appellant 2. Respondent 3. CIT 4. CIT(A)  
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.