

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH "C", PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI SONJOY SARMA, JUDICIAL MEMBER

ITA No.2604/PUN/2017

निर्धारण वर्ष / Assessment Year : 2014-15

Biz Secure Labs Pvt. Ltd., 1206, Sadashiv Peth, Pune 411 030 PAN : AADCB6188L	Vs.	DCIT, Circle- 1(1), Pune
Appellant		Respondent

ITA No.2595/PUN/2017

निर्धारण वर्ष / Assessment Year : 2014-15

DCIT, Circle- 1(1), Pune	Vs.	Biz Secure Labs Pvt. Ltd., 1206, Sadashiv Peth, Pune 411 030 PAN : AADCB6188L
Appellant		Respondent

Assessee by Shri V.L. Jain
Revenue by Shri Rajeev Kumar

Date of hearing 23-03-2022
Date of pronouncement 28-03-2022

आदेश / ORDER

PER BENCH :

These two cross appeals – one by the assessee and the other by the Revenue arise out of the order passed by the Id. CIT(A) on 21-08-2017 in relation to the assessment year 2014-15. Whereas, the assessee is aggrieved by the countenance of the partial rejection

of claim of deduction u/s.80IC of the Act to the extent of Rs.21,33,98,737/-, the Revenue is agitating the deletion of rejection of the claim u/s.80IC to the tune of Rs.15,99,42,886/-.

2. Briefly stated, the factual matrix of the case for the year under consideration is that the assessee filed its return declaring total income of Rs.2.91 crore, after claiming deduction u/s.80IC of the Act amounting to Rs.49.99 crore. The AO observed that the assessee claimed excessive deduction in respect of its Parwanoo unit, as was done in the preceding years. The reason for the AO's opinion was that the assessee was doing the only activity of CD writing in the eligible Parwanoo unit, whereas the core activity of Antivirus software development was undertaken by the R&D Centre of the assessee situated in Pune. As against that, the deduction u/s 80IC was claimed on the profit arising from both the activities. He opined that the deduction u/s.80IC was to be allowed only to the extent of the activity of CD writing carried at the Parwanoo unit. Following his action for the immediately preceding year, the AO made a partial disallowance of the deduction at Rs.37,33,41,623/- w.r.t. the total sales made by the

Parwanoo unit. Similar to the earlier years, the assessee made elaborate submissions before the Id. first appellate authority, which have been reproduced extensively in the impugned order. Following his view taken in the appeal order for the A.Y. 2013-14, the Id. CIT(A) held that the partial disallowance of deduction u/s.80IC was to be made but restricted it only to the extent of the CD writing activity in respect of sales made by the Parwanoo unit to the Pune unit and not the sales made by the Parwanoo unit to unrelated third parties. Again for this year, the Id. CIT(A) did not deal with all the submissions made before him as incorporated in the impugned order. Aggrieved thereby, the assessee as well as the Revenue have approached the Tribunal on their respective stands.

3. At the outset, both the sides fairly admitted that the facts and circumstances for the A.Y. 2014-15 under consideration are *mutatis mutandis* similar to those for the A.Y. 2013-14 except that for the current year there was no reference to the Transfer Pricing Officer for determination of the arm's length price of the Specified Domestic Transactions.

4. We have heard the rival submissions and scanned through the relevant material on record. The appeals for the A.Ys. 2012-13 and 2013-14 were heard simultaneously with the extant appeals. In fact, both the sides adopted the arguments for this year as were advanced by them for the earlier years. A separate order for the A.Yrs. 2012-13 and 2013-14 has been passed today by the Tribunal. Following the view taken in the cross appeals for the A.Y. 2013-14, we adopt the same conclusions for the year under consideration as well.

5. In the result, the appeal of the Revenue is dismissed and that of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 28th March, 2022.

Sd/-
(SONJOY SARMA)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 28th March, 2022
Satish

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Pune
4. The Pr. CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "C" / DR 'C',
ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	23-03-2022	Sr.PS
2.	Draft placed before author	25-03-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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