आयकर अपीलीय अधिकरण 'बी' न्य□पीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, CHENNAI

म□ननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ **ITA No.2003/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2008-09)
&
आयकर अपील सं./ **ITA No.2004/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2009-10)
&
आयकर अपील सं./ **ITA No.2005/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2010-11)
&
आयकर अपील सं./ **ITA No.259/Chny/2018**
(निर्धारण वर्ष / Assessment Year: 2011-12)

M/s. Sutherland Global Services Pvt. Ltd. No.45-A, Velachery Main Road Velachery, Chennai-600042.	**बनाम** / Vs.	**ACIT,** Company Circle-VI(4), Chennai.
स्थायी लेखा सं./जीआइ आर सं./**PAN/GIR No. AAECS-8093-A**		
(□ पीलार्थी**/Appellant**)	:	(प्रत्यर्थी / **Respondent**)

&
आयकर अपील सं./ **ITA No.2105/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2008-09)
&
आयकर अपील सं./ **ITA No.2020/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2009-10)
&
आयकर अपील सं./ **ITA No.2019/Chny/2016**
(निर्धारण वर्ष / Assessment Year: 2010-11)
&
आयकर अपील सं./ **ITA No.242/Chny/2018**
(निर्धारण वर्ष / Assessment Year: 2011-12)

DCIT/ACIT, Corporate Circle-6(2)/VI(4) Chennai.	**बनाम**/ Vs.	**M/s. Sutherland Global Services Pvt. Ltd.** No.383, Velachery Tambaram Main Road, Vijayanagaram, Chennai-600042.
स्थायी लेखा सं./जीआइ आर सं./**PAN/GIR No. AAECS-8093-A**		
(□ पीलार्थी**/Appellant**)	:	(प्रत्यर्थी / **Respondent**)

अपीलार्थी की ओरसे/ **Appellant by**	:	Shri Ajay Rotti (CA)-Ld. AR
प्रत्यर्थी की ओरसे/**Respondent by**	:	Shri Abani Kanta Nayak (CIT)-Ld. DR

सुनवाई की तारीख**/** **Date of Hearing**	:	15-02-2022
घोषणा की तारीख / **Date of Pronouncement**	:	18-05-2022

आदेश / O R D E R

Per Bench:

1. Aforesaid cross-appeals for Assessment Years (AY) 2008-09 to 2011-12 arises out of separate orders of learned first appellate authority. The Ld. AR, at the outset, placed on record issue-wise chart for all the years to submit that the issues are common. Few of the issues are stated to be covered by earlier orders of Tribunal / Hon'ble High Court of Madras in assessee's own case. The copies of the case laws have been placed on record. The Ld. AR advanced arguments to assail the additions as sustained in the impugned order and also supported the issues which have gone in assessee's favor. The Ld. CIT-DR also advanced argument and took contrary position. The Ld. CIT-DR also filed written submissions which have duly been considered. The Ld. Ld. CIT-DR submitted that disallowance u/s 40(a)(i) could not be considered as income derived from export and therefore, deduction u/s 10A and 10AA would not be available against the same. The Ld. CIT-DR submitted that post 2001, these provisions are deduction provisions. The

stage of deduction u/s 10A is while computing gross total income of eligible undertaking under Chapter IV of the Act and not at stage of computation of total income under Chapter VI of the Act. The provisions of Sec.40(a)(i) would apply only when income under the head is to be computed. Thus, the stage of deduction u/s 10A is anterior to stage at which Sec.40(a)(i) disallowance is to be made. The arguments have also been made assailing setting-off of losses. On the contrary, Ld. AR controvert the same and relied on the decision of Hon'ble Bombay High Court in **Pr. CIT V/s BMC Software India (P.) Ltd. (109 Taxmann.com 277; 10/12/2018; AY 2006-07)** wherein Hon'ble Court held the issue in assessee's favor by relying upon its earlier decision in **CIT V/s Gem Plus Jewellery India (P.) Ltd. (194 Taxman 192).** The Special Leave Petition against this decision is stated to have been dismissed by Hon'ble Apex Court on 29.07.2019 due to monetary limit which is reported at 109 Taxmann.com 278

Having heard rival submissions, our adjudication would be as given in succeeding paragraphs.

2. The registry has noted a delay of 10 days in revenue's appeal for AY 2008-09, the condonation of which has been sought by the revenue on the strength of condonation petition which is supported by the affidavit of learned Assessing Officer. Since Ld. AR did not raise any objection on delay and considering the period of delay, the appeal is admitted for adjudication on merits.

3. The cross-appeals for AY 2008-09 arise out of the order of learned Commissioner of Income Tax (Appeals)-15, Chennai [CIT(A)] dated 01.03.2016 in the matter of assessment framed by learned AO u/s 143(3) r.w.s. 147 on 28.02.2014.

Though the assessee has raised multiple grounds of appeal, however, the only ground urged before us is ground no.2 which read as under: -

> 2. That the Learned CIT(A) has erred in upholding the disallowance of Business Development Commission and arriving at the conclusion that payments made by the Appellant to US Parent Company towards Business development Commission (marketing services) result in income chargeable to tax in India.

The grounds raised by the revenue read as under: -

> 1. The order of the learned CIT(A) is contrary to law and facts of the case.
> 2 The CIT(A) erred in directing the AO to include the disallowance made u/s 40(a) (ia) in the profits for while computing the deduction u/s 10A & 10AA.
> 2.1 The Ld. CIT(A) ought to have noted that technical disallowance made u/s 40(a)(ia) while computing the taxable income of the assessee does not alter the profit of the eligible unit.
> 2.2. The Ld. CIT(A) erred in directing the AO to exclude the FE not brought to India within the specified period from total turnover while computing the eligible deduction u/s 10A.
> 2.3 The Ld. CIT(A) ought to have noted that such exclusion from total turnover will nullify the condition prescribed u/s 10A(3).
> 2.4 The Ld. CIT(A) ought to have followed the binding decision of ITAT, Chennai Bench in Avalon Technologies PVT Ltd., Vs ACIT reported in 36 ITR (Trib) 567.
> 2.5 The Ld. CIT(A) erred in allowing the claim of the assessee to set off the loss of STPI unit against business income. She ought to have followed the decision of Delhi High Court in CIT Vs Ket Industries Ltd. (118 DTR 306).

4. The assessee being resident corporate assessee is stated to be engaged in Business Process Outsourcing (BPO), IT enabled services and Software development. The return, though scrutinized u/s 143(3), was reopened to make various adjustments and disallowances which form subject matter of cross-appeal before us. Out adjudication would be as under: -

5. Business Development Commission

5.1 The assessee paid Business Development Commission (BDC) of Rs.2241.69 Lacs to its US based Associated Enterprises (AE). However,

no tax at source (TDS) was deducted on the same. Though corresponding disallowance u/s 40(a)(i) (wrongly referred to as 40(a)(ia) in the orders of lower authorities) was already made in assessment u/s 143(3), however, the same was included in deduction u/s 10A and 10AA consequently increasing the deductions. The disallowance u/s 40(a)(i) could not be said to be income derived from the export of software. Since as per CBDT Circular No.7/2009, the BDC would be deemed to accrue or arise in India, the amount so paid by the assessee was added to the total income.

5.2 Though Ld. CIT(A) upheld disallowance u/s 40(a)(i), however, it was held that deduction u/s 10A and 10AA would be available on disallowance u/s 40(a)(i) also. Aggrieved, the revenue is in further appeal before.

5.3 We find that the issue of disallowance u/s 40(a)(i) is covered in assessee's favor by the decision of Hon'ble High Court of Madras in assessee's appeal TCA No.32 of 2019 for AY 2008-09 dated 23.09.2020. The Hon'ble Court in para-12 noted that the issue of TDS on BDC was considered by the TDS authority where the assessee was held to be assessee-in-default. However, Ld. CIT(A) decided the issue in assessee's favor which had attained finality. The Ld. CIT(A), vide order dated 03.02.2014 for AYs 2011-12 & 2012-13, held that BDC could not be held as 'Fees for Technical Services' or consultancy services. Further, the services were rendered outside India. Therefore, there was no question of TDS on these payments. On the basis of the same, it was held by Hon'ble Court that the Tribunal exceeded its jurisdiction while remanding the matter back to Ld. AO. Accordingly, the decision of Tribunal was reversed. In other words, it was held that there was no

requirement on the part of the assessee to deduct TDS on such payments and accordingly, no disallowance u/s 40(a)(i) would be attracted. Since the issue of TDS itself has been decided in assessee's favor on merits, the grounds thus raised in assessee's appeal as well as in revenue's appeal has become infructuous in view of the fact that the subject matter of reassessment proceedings was limited i.e., whether the disallowance made u/s 40(a)(i) would be eligible for deduction u/s 10A and 10AA or not? Since, the disallowance itself do not survive, the grounds raised in cross-appeal stand dismissed as infructuous. The assessee's appeal stand dismissed as infructuous.

6. Provision for Doubtful Debts

6.1 The provision for doubtful debts of Rs.1344.67 Lacs include revenue from export operation attributable to Sec.10A. The Ld. AO proposed exclusion of the same from export turnover on the ground that time limit of Sec.10A (3) had expired. The assessee submitted that provision was only 2.5% of export turnover as against limit of 10% put by RBI in Master Circular on export of goods & services. If the provision were to be reduced from export turnover, the same should also be excluded from total turnover also. However, Ld. AO opined that the provisions of Sec.10A (3) provide that export proceeds should be brought back within a period of 6 months or within such time as RBI may allow. The master circular only speaks about write-off of outstanding dues whereas 10A (3) only refers to RBI for the purpose of time limit only. Therefore, the provisions could not be considered as part of export turnover. Further, the same were not to be excluded from total turnover as pleaded by the assessee. Accordingly, deduction u/s 10A was

recomputed and an amount of Rs.269.51 Lacs was added to the income of the assessee.

6.2 During appellate proceeding, the assessee reiterated that the provision was only 2.5% of the turnover. If the provisions are reduced from export turnover, then the same should be reduced from total turnover as well as held by Hon'ble Supreme Court in the case of **CIT V/s Lakshmi Machine Works (290 ITR 667)** as well as **CIT V/s Catapharma India P. Ltd (292 ITR 641)**. The decision of special bench of Chennai Tribunal in **ITO V/s Saksoft Ltd. (30 SOT 55)** was also referred which upheld the doctrine of parity between the export turnover in the numerator and total turnover in denominator for the purpose of Sec.10A / 10B of the Act. The Ld. CIT(A) upheld the disallowance but directed Ld. AO to reduce the provisions from total turnover also. Aggrieved, the revenue is in further appeal before us.

6.3 We find that the action of Ld. CIT(A) is in accordance with cited judicial decisions. The decision of Hon'ble Supreme Court in **CIT V/s HCL Technologies Ltd. (404 ITR 719)** as well as the decision of Hon'ble High Court of Madras in **CIT V/s Maars Software International Ltd. (TCA No.390 of 2009 dated 05.12.2018)** also supports the same view. Therefore, the impugned order, on this issue, do not require any interference on our part. The grounds thus raised by the revenue stand dismissed.

7. Set-off of STPI and SEZ Units

7.1 The assessee had two units in STPI, one of which earned profits whereas the other incurred losses. These units were eligible for deduction u/s 10A.The assessee had three units in SEZ, two of which earned profits during the year whereas the third one incurred loss. These

units were eligible for deduction u/s 10AA. The assessee set-off the losses of STPI unit as well as SEZ unit against taxable income which was held to be not acceptable. The Ld. AO opined that current year's losses have to be adjusted before arriving at total taxable income. Accordingly, total deduction u/s 10A and 10AA was reworked to Rs.7905.64 Lacs. However, Ld. CIT(A) reversed the stand of Ld. AO against which the revenue is in further appeal before us.

7.2 We find that this issue is covered in assessee's favor vide Tribunal order ITA No.2002/Chny/2016 for AY 2008-09 order dated 27.02.2018 as under:

> 13. In our opinion, the issue raised by the Revenue stands settled in favour of the assessee by the judgment of Hon'ble Apex Court in the case of CIT vs. Yokogowa India Ltd (2017) 145 DTR 0001. Considering the above judgment, we are of the opinion that ld. Commissioner of Income Tax (Appeals) was justified in directing the ld. Assessing Officer to allow the set off loss on the STP unit against income from other units. We do not find any reason to interfere with the order of the ld. Commissioner of Income Tax (Appeals) in this regard.

Accordingly, finding no reason to interfere in the adjudication of Ld. CIT(A), we dismiss the grounds raised by the revenue.

Finally, the cross-appeals for AY 2008-09 stand dismissed in terms of our above order.

Cross-Appeals for AY 2009-10

8. The assessment for this year has been farmed u/s 143(3) r.w.s. 92CA(4) on 30.03.2013.The Ld. CIT(A) has partly allowed the appeal vide order dated 01.03.2016 against which the assessee as well as the revenue is in further appeal before us. The sole disallowance made in the assessment order is disallowance of Business Development Commission (BDC) for Rs.2455.98 Lacs for want of TDS compliance. The Ld. CIT(A), though upheld the disallowance, directed Ld. AO to

allow deduction u/s 10A and 10AA. Considering appellate order dated 03.02.2014 for AYs 2011-12 & 2012-13 which has attained finality and in view the decision of Hon'ble High Court of Madras in TCA No.32 of 2019 for AY 2008-09 dated 23.09.2020, we would hold that the aforesaid payments would not require any TDS and therefore, no disallowance u/s 40(a)(i) would be attracted in the hands of the assessee. Accordingly, the assessee's appeal stand allowed whereas the revenue's appeal stand dismissed as infructuous.

Cross-Appeals for AY 2010-11

9. The assessment for this year has been framed u/s 143(3) r.w.s. 92CA(4) on 30.03.2014. The Ld. CIT(A) has partly allowed the appeal vide order dated 01.03.2016 against which the assessee as well as the revenue is in further appeal before us. One of the disallowances made in the assessment order is disallowance of Business Development Commission (BDC) for Rs.4691.59 Lacs for want of TDS compliance. The Ld. CIT(A), though upheld the disallowance, directed Ld. AO to allow deduction u/s 10A and 10AA. Considering appellate order dated 03.02.2014 for AYs 2011-12 & 2012-13 which has attained finality and in view the decision of Hon'ble High Court of Madras in TCA No.32 of 2019 for AY 2008-09 dated 23.09.2020, we would hold that the aforesaid payments would not require any TDS and therefore, no disallowance u/s 40(a)(i) would be attracted in the hands of the assessee. The assessee's grounds of appeal stand allowed whereas the revenue's ground stand dismissed as infructuous. The remaining grounds in revenue's appeal are adjudicated as under: -

10. Deduction of Expenses incurred by SEZ Units against other units

10.1 The assessee incurred losses in SEZ-DLF2 unit and set-off the same from taxable income. The Ld. AO opined that the SEZ unit has to be considered separately and set-off would be available only if the business commences. Accordingly, the set-off of Rs.101.27 Lacs was denied to the assessee. The Ld. CIT(A) allowed the set-off on the ground that though the business of the unit had not commenced, however, the business of the assessee, being ongoing, the expenditure incurred in the unit would be allowable u/s 37(1). Aggrieved, the revenue is in further appeal before us.

10.2 After going through the impugned order on this issue, we concur with the reasoning of Ld. CIT(A). It is undisputed fact that the assessee's business had already commenced. Only the unit was set-up which had not commenced operations. Therefore, the loss of one unit could be set-off against another units. Concurring with the adjudication, we dismiss the grounds raised by the revenue.

11. Set-off of losses of eligible Units

11.1 The assessee had set-off the losses of Rs.1759.34 Lacs relating to units eligible for deduction. The Ld. AO denied the same. However, Ld. CIT(A) allowed the set-off against which the revenue is in further appeal before us.

11.2 This issue has already been adjudicated by us in assessee's favor for AY 2008-09. Taking the same view, we dismiss the grounds raised by the revenue.

12. Additional Ground of Assessee's Appeal

12.1 The assessee has raised an additional ground in this appeal wherein the assessee seeks exclusion of unrealized debtors from total turnover for the purpose of computing deduction u/s 10A. We admit the additional ground. Facts qua the issue are that STP-1 Unit could not realize debtors of Rs.15.18 Lacs within the prescribed time limit. Accordingly, Ld. AO excluded the same from export turnover. The assessee sought exclusion of the same from total turnover which was denied. During appellate proceedings, the assessee submitted that the realization was made within the extended time limit. However, no evidence could be produced. Therefore, the action of Ld. AO was confirmed against which the assessee has raised additional ground of appeal wherein the assessee seeks exclusion of unrealized debtors from total turnover for the purpose of computing deduction u/s 10A.

12.2 The Ld. CIT-DR has submitted that the case law of Hon'ble Supreme Court in **CIT V/s HCL Technologies Ltd. (404 ITR 719)** would not be applicable since that decision was related to expenditure in the nature of freight, telecommunication, insurance expenditure attributable to delivery of computer software and expenses in foreign exchange for providing technical services. However, in the present case, the question is of sales proceeds. The provisions of Sec.10A (3) make it abundantly clear that the provisions are not at all applicable on such sale proceeds. Therefore, the question of determining export turnover or total turnover would not arise.

12.3 We find that similar arguments made by Ld. CIT-DR has been negated by Hon'ble High Court of Madras in **CIT V/s Maars Software**

International Ltd. (TCA No.390 of 2009 dated 05.12.2018) wherein it was held as under: -

20. While the scheme of Section 10A does not provide for a definition of the term 'total turnover', Explanation 2(iv) defines 'export turnover' in the following terms:
(iv) "export turnover" means the consideration in respect of export by the undertaking of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India;
21. The issue of whether the items reduced from 'export turnover', such as freight, telecommunication charges or insurance as provided for in the definition would also stand reduced from 'total turnover' was the subject matter of consideration by the Supreme Court in the case of CIT V. HCL Technologies [2018] (404 ITR 719) and the issue was held in favour of the assessee. The conclusion of the Bench was to the effect that items excluded/reduced from the numerator would stand excluded/reduced from the denominator as well. Paragraphs 18 to 21 of the judgement are relevant and are extracted below:
18) Accordingly, the formula for computation of the deduction under Section10A of the Act would be as follows:

$$\text{Export Profit} = \text{Total Profit of the Business} \times \frac{\text{Export Turnover as defined in Explanation 2(iv) of Sec.10A}}{\text{Export Turnover as defined in Explanation 2(iv) of Sec.10A+ domestic sale proceeds}}$$

19) In the instant case, if the deductions on freight, telecommunication and insurance attributable to the delivery of computer software under Section10A of the IT Act are allowed only in Export Turnover but not from the Total Turnover then, it would give rise to inadvertent, unlawful, meaningless and illogical result which would cause grave injustice to the 19 Respondent which could have never been the intention of the legislature.
20) Even in common parlance, when the object of the formula is to arrive at the profit from export business, expenses excluded from export turnover have to be excluded from total turnover also. Otherwise, any other interpretation makes the formula unworkable and absurd. Hence, we are satisfied that such deduction shall be allowed from the total turnover in same proportion as well.
21) On the issue of expenses on technical services provided outside, we have to follow the same principle of interpretation as followed in the case of expenses of freight, telecommunication etc., otherwise the formula of calculation would be futile. Hence, in the same way, expenses incurred in foreign exchange for providing the technical services outside shall be allowed to exclude from the total turnover.'
22. Learned Counsel for the Revenue seeks to distinguish the above judgment stating that the rationale thereof would be applicable only to the items of exclusion at issue before the Supreme Court and cannot be extended to the question of unrealised sale proceeds, which is the issue in the present case.
23. We see no valid distinction as sought to be pointed out before us. The components of the total turnover/denominator in the formula would be the quantum of export turnover/numerator plus proceeds from domestic sales. Thus what is

'export turnover' for the purpose of the numerator would have to be the 'export turnover' for the purpose of denominator as well and 'export turnover' cannot assume two different characteristics for two parts of the same formula.

24. In the present case, the quantum of 'export turnover' has been taken to be the actual remittances of foreign exchange after excluding the unrealised foreign exchange. This then would be the same figure to be adopted so far as the denominator is concerned as well. In fine, 'total turnover' for purposes of the formula would be the actual sale receipts excluding unrealised foreign exchange as adopted for 'export turnover'. This conclusion is also supported by the reasoning that the provisions of Section 10A/10B are beneficial in nature and seek to encourage an assessee engaging in a prescribed activity.

25. In the light of the discussion as above, we answer the question of law in the negative, in favour of the assessee and against the Revenue. The Tax Case (Appeal) is dismissed. No costs.

Respectfully following the same, we direct Ld. AO to exclude this item from total turnover also. This ground stand allowed.

12.4 No other grounds have been urged in assessee's appeal. The assessee's appeal stands partly allowed. The revenue's appeal stands dismissed.

13. Cross-Appeals for AY 2011-12

The assessment for this year has been framed u/s 143(3) r.w.s. 92CA(4) on 31.03.2015. The Ld. CIT(A) has partly allowed the appeal vide order dated 28.09.2017 against which the assessee as well as the revenue is in further appeal before us. This appeal is adjudicated as under: -

14. Business Development Commission

The assessee paid BDC for Rs.4016.50 Lacs which was disallowed u/s 40(a)(i). The Ld. CIT(A) upheld the action of Ld. AO against which the assessee is in further appeal before us. Considering appellate order dated 03.02.2014 for AYs 2011-12 & 2012-13 which has attained finality and in view the decision of Hon'ble High Court of Madras in TCA No.32 of 2019 for AY 2008-09 dated 23.09.2020, we would hold that the aforesaid payments would not require any TDS and therefore, the

disallowance u/s 40(a)(i) was not attracted in the hands of the assessee. Ground Nos.1 & 2 of assessee's appeal stand allowed which render Ground No.3 infructuous.

15. Computation of Export Turnover for the purpose of Sec.10A and Sec.10AA

15.1 The assessee claimed deduction u/s 10A and 10AA for 9 units. Six of the units were in SEZ eligible for Sec.10AA whereas 3 were STPI units which were eligible for deduction u/s 10A. The Ld. AO reduced deduction by Rs.389.88 Lacs by excluding expenditure in foreign currency from export turnover. These expenses were in the nature of travel, connectivity charges, management fees, business development commissions, sales and marketing expenses, software maintenance expenses and other expenses in foreign currency amounting to Rs.8674.49 Lacs. These expenses were held to be part and parcel of expenses incurred to deliver the software outside India. The plea of the assessee that these items should be excluded from total turnover was rejected.

15.2 The Ld. CIT(A) held that the other expenditure incurred in foreign currency was to be excluded from total turnover since the same was excluded from export turnover. Accordingly, the appeal was partly allowed.

15.3 Respectfully following the decision of Hon'ble High Court of Madras in **CIT V/s Maars Software International Ltd. (TCA No.390 of 2009 dated 05.12.2018),** we confirm the stand of Ld. CIT(A) in excluding foreign currency expenditure from total turnover. The grounds raised by the revenue as well as Ground No.4 of assessee's appeal stand dismissed. The assessee's appeal stands partly allowed.

16. Disallowance u/s 14A excluded from exempt profit

16.1 The disallowance as made u/s 14A for Rs.68.54 Lacs was held to be deemed income and not derived from export activity and therefore, the same could not be considered as exempt income.

16.2 The Ld. CIT(A), relying on the decision of Chennai Tribunal in **Cognizant Technology Solutions (ITA No.114 & 2100/Mds/2011; 23.01.2103)** as well as the decision in **Polaris Financial Technology Ltd. (2013 (9) TMI 296),** directed Ld. AO to include the disallowance in Profit & Gain derived from export. Aggrieved, the revenue is in further appeal before us.

16.3 Considering the fact that Ld. CIT(A) has followed the decisions of Tribunal while adjudicating the appeal, we do not find any reason to interfere in the same. The grounds raised by the revenue stands dismissed.

17. Set-off within deduction units

The losses of units eligible for deduction u/s 10A and 10AA amounting to Rs.3227.08 Lacs were set-off from taxable income to the extent of Rs.1905.82 Lacs. The set-off of the same was denied to the assessee. The Ld. CIT(A) relying on the decision of this Tribunal in assessee's own case for AY 2010-11 allowed the claim of the assessee. This issue has already been adjudicated by us in assessee's favor for AY 2008-09. Taking the same view, we dismiss the grounds raised by the revenue. The revenue's appeal stands dismissed.

18. Conclusion

The cross-appeals for AY 2008-09 stand dismissed. The assessee's appeal for AY 2009-10 stand allowed. The revenue's appeal for AY 2009-10 stand dismissed. The assessee's appeals for AYs 2010-11 &

2011-12 stands partly allowed. The revenue's appeals for AYs 2010-11 & 2011-12 stands dismissed.

Order pronounced on 18th May, 2022.

Sd/-	**Sd/-**
(MAHAVIR SINGH)	**(MANOJ KUMAR AGGARWAL)**
उपाध्यक्ष /VICE PRESIDENT	**लेखासदस्य / ACCOUNTANT MEMBER**

चेन्नई / Chennai; दिनांक / Dated : 18-05-2022
EDN/-

आदेश की प्रतिलिपि ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF